Volume XVII.] *December, 1902.* [*Number 4.*

POLITICAL SCIENCE QUARTERLY.

AUTHORITATIVE ARBITRATION INEVITABLE?

FOR the first time we are seriously considering whether disputes between employers and employed shall be settled by compulsory arbitration. Whenever hitherto this question has been raised, it has been answered by a prompt and decided "No." The example of New Zealand, however, has had some effect upon us, and the disastrous strike of coal miners has had more. The multiplying of strikes in which the interests of the public are sacrificed, while the government finds no constitutional way to protect them, thrusts upon us the question: How much longer shall quarrels that result in stopping the supply of necessary articles be regarded as private affairs? Strikes which make fuel scarce and dear, or cause food to perish in warehouses, or stop the carrying of goods and so interfere with industries generally, are things which a state should never tolerate. Yet the privilege of striking is a part of the system by which wages are adjusted. Workers have something to sell, and they must be able to withhold it if they are to have an effective voice in fixing the price that they will get. In most cases it may not be necessary actually to withhold it, but an ultimate power to do so is inherent in our system of bargaining. The public suffers every time that this ultimate expedient is used, and it is now used constantly and on a very large scale. Our country is never at peace and many of the internal wars which rend it are so great that they involve an appalling amount of harm and danger.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The consolidation of industries has already gone so far that a strike in one of them may cut off nearly the whole supply of some article; and it may be an article that the public cannot consent to be deprived of. If it is a necessity for the poor, the injury which the stoppage causes is most grave; but even though it be not an absolutely necessary article, and even though the consumers of it be not the very poor, the sudden closing of the sources of supply harms a vast number of people who have no part in the pending dispute but do have an undoubted right to protection. Trusts have made strikes injurious and dangerous, and may soon make them unendurable.

Under the old system of competition the evil was relatively trifling. The stoppage of work in one shop out of a hundred did not gravely affect consumers of the product there made, for other producers supplied the goods that were called for. When a trust controls nearly the entire output of some variety of goods, a quarrel that stops production is a very different matter and calls for very different treatment. Under a régime of consolidation continuity of service is a hundredfold more imperative than it was under the former régime of independent establishments. Moreover, when a strike cuts off the supply of some needed article and the public demands that the important service to itself be resumed, the exasperating phrase "nothing to arbitrate," which is sufficiently inaccurate as a description of the relation of two parties in any open quarrel, becomes preposterous. The people who need products have a *prima facie* claim that work shall go on, and a question to be adjudicated is, on what terms as to wages, hours of labor, *etc.*, the state may compel work to go on without doing a wrong to employers or to employed.

If the question whether or not arbitration shall be insisted on is to be decided on broad grounds of equity, and if the rights of the public are to be considered, the reasoning which proves that we must have such arbitration is short and conclusive. The people have a right to continuous service. In enforcing this right they must see that justice is done between employers and employed. They must not order employers to pay whatever

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the men may demand, but they must see whether the men's demands are or are not just; and if the former proves true, the people's demand for continuous service becomes just also. Testing the equity of the demands is arbitration, and is essential as preliminary to the requirement that a necessary service of the public be continued. When conciliation fails, arbitration alone can protect the people on the one hand and the contestants on the other. A resort to it should be required.

One of the premises of this syllogism will not go unquestioned, namely, that justice between employers and employed can be insured by means of tribunals of arbitration. If this is not possible, the public will certainly be slow to force arbitration on contending parties. This measure may, in any case, have opposition to encounter from corporations and from those trade unions which are able, at need, to maintain the fiercest strikes. Partly from a distrust of courts of the ordinary kind, which extends itself over tribunals for settling disputes as to wages, and partly for a less legitimate reason, strongly organized bodies of workmen may prefer to make contracts with their employers, with a strike in view in case negotiations fail, and, as a last resort, to fight the issue through to the bitter end, rather than to allow any one besides the contending parties to have anything to say in the matter. It is in this last resort that the rights of the people as a whole suffer, and that, too, in a way that cannot always be endured. If the discovery is made that even the interests of the parties in an industrial quarrel are safe in the hands of a rightly constituted tribunal of arbitration, it will be clear what policy is sound and equitable. We must provide every needed safeguard for the interests of employers and employed, but we must no longer allow them to rend society by their quarrels.

From another point of view the argument in favor of requiring by law the acceptance of arbitration when offered, appears equally conclusive. Trade unions are formed for the purpose of making collective bargains; but they do not content themselves with that function. They assert a certain ownership of their jobs, in that they not only strike, but stand guard over the places

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which they vacate and deter other men from taking them. The "persuasion" that is used to accomplish this purpose is by no means wholly of the moral kind, and the non-union man who is on the point of accepting the job that is offered to him finds presented to him such encouragers of hesitancy as boycotts and personal abuse, followed, at need, by courses of brickbats and cudgels, if not of bombs and rifles. The civil law theoretically protects him, but it is not enforced to a degree that gives effective protection. It suppresses riots when they have become violent enough to be a menace to the public, but within large limits it lets the men vindicate in their own rude way the right of tenure of place which they claim. There is some reason for this besides the cowardice of officeholders; for if the public demanded the rigorous enforcement of law and the complete guaranteeing to every man, whether in a union or outside of it, his constitutional right to take work that is offered to him, political subserviency would make the officials enforce the law instead of winking at the violation of it. There is something in the attitude of the general public that makes the enforcement difficult, and what that is we must try to discover; but, as bearing on the question of arbitration, the main point is that this reluctance to give full protection exists and is a factor of the first importance in the industrial situation. Men may vacate their places and prevent others from filling them, thus establishing an irregular monopoly of a field of work and guarding it in a way that creates a kind of anarchy. There is an obvious defiance of law and a clear and often flagrant interference with the rights of other men, and the states persist in winking at it — for a reason.

We shall see that the latent reason for this course on the part of state governments is an undefined feeling that a rigorous enforcement of the law might defeat bodies of strikers who are making just claims. "Strike breaking" might conceivably be accomplished in a way that would force even organized labor to take less than a natural rate of pay, and a rude perception of this fact makes the public reluctant to give to employers a free hand in coping with strikes. As between tolerating the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

freest breaking of strikes through imported men and tolerating anarchy, the states have, with much wavering, accepted a limited amount of the anarchy. The national law that forbids the bringing of men under a contract from foreign countries, the state law which — partly, indeed, on the ground of protecting life in a dangerous employment — demands two years of service in the coal mines before one can work as a miner, and thus makes it difficult to work mines at all if the certificated miners strike, are indications of the actual temper of both officials and the mass of the people as to this issue; while, as an extreme case, the proposal of a certain governor to shoot down with Gatling guns bodies of negroes who might be imported into his state to take the places abandoned by a body of strikers, is an indication of the manner in which a certain type of official gauges the attitude of the people to whom he caters. The public is not quite ready for free strike breaking, involving, as it does, a relentless thrusting out of their places of men who are temporarily refusing to work. And yet no right-minded man is ready to accept and legitimate the anarchy that results from letting the men prevent this in their own way. We are pursuing a wretched, compromising course, protecting non-union workers sometimes and abandoning them at other times, and seldom giving the amount of protection that would make life and limb, family and property completely safe.

What is the inference? If the state shrinks from doing its duty to the independent workers for fear of doing an injustice to the strikers, there is one obvious course for it to pursue: it must test the justice of the strikers' claims and govern its course by the result of the test. If the men are asking what is fair, let their claim to a tenure of place be respected. Give them the preference over other men, even though, for the moment, those other men might offer to work more cheaply. A difference in the character of the work done may justify the difference in pay. If the strikers demand more than is fair, announce a fair rate and let them have the option of taking it. If they reject this, open the field to any one who will come into it and work. Give to the incoming men the fullest protection

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that police power, backed at need by military power, can give. Public sentiment will, on these conditions, demand and justify the fullest enforcement of law, since the fear of doing an injury to the striking workmen will have been removed. There will be no feeling that strikers should be allowed to claim what is unjust and still drive off their competitors.

What, however, is justice in this case? Is there any rule which affirms that, as a compensation for labor, so much is right and more than this is wrong? Can any tribunal detect and apply a just standard of wages? This is the deepest question that can be raised in this connection; and if we answer it, we shall have an additional light on the real but unformulated motive that governs the public in its tolerance of misrule resulting from strikes. Why is there any injustice done by the freest possible strike breaking? Why should we not bring men from any section of the country to fill places that stand vacant because of a strike? If there is any sound reason for objecting to this, it is because there is a fair standard of wages, and strike breaking might force the actual pay of workmen below that standard.

We may accept the fact that in the adjusting of wages nature, in the main, has its way and that cosmic forces, which we are beginning to understand, assign to labor a general rate of pay. This rate of pay depends on the productive contribution which labor makes to the income of society. The men in a mill do not get what they and the mill together produce, but under normal conditions they tend to get something approximating the part of that joint product which they may fairly regard as solely the fruit of their own labor. So much of fairness is there in the more general results of free competition. Actual wages vary now more and now less from this ideal standard, but deep acting influences cause them to hover about it. What we have to decide is, by what mechanism we can come nearest to realizing these results. Will the verdict of a court or such a savage combat as a strike presents call into the more effective action the forces that tend to reward labor fairly? If the former, the reasons for employing the courts are decisive;

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for there is no question as to the waste, the suffering and the positive danger to the public which strikes entail. Tribunals of arbitration, if they are good on the economic side, are certainly so on the social and moral sides; for they promise to remove a serious menace which hangs over government by the people. They substitute for an influence that brutalizes men one that develops their sense of justice, fosters a law-abiding spirit and makes possible a more fraternal feeling toward the employing class than is possible when contracts with them are based on the issue of savage fights.

Will courts of arbitration, then, act as a mechanism through which natural law will assert itself, or will they set such law at naught and act capriciously and corruptly? This is the great question, and it would be rash to claim that we can answer it in an entirely positive way. It is possible, however, to show that if the tribunals are rightly constituted, they will take account of the natural laws of distribution and that there is little danger that the rates of pay which they assign will vary more widely from the normal ones than do the rates established under present methods. There is, moreover, little probability that they will be corrupt.

The basis of the claim that a workman makes is the fact that his presence in the mill causes a certain increase in the output of it. If he were to leave the mill and the employer were to get on without him, there would be fewer goods made in a year. The work could go on with the original amount of capital and with one man less; but the product would be less than it formerly was, and the reduction would be due entirely to the withdrawal of the labor. The amount of this reduction measures the productive power of one man's work. Restore this labor, and you add a like amount to the product, and in this case the addition to the product measures the amount that can be attributed to the restored labor alone. If a shop representing a hundred thousand dollars' worth of capital and a hundred men produces a hundred cases of goods in a week, and if the same shop with ninety men produces ninety-three cases per week, then seven cases are attributable to the labor

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of ten men, and the weekly pay of each man should be the value of seven-tenths of a case. When one demands that amount as his weekly wages the employer can give it, without impairing his own interests, since the man can produce it and can get it elsewhere if competition is active. Let him offer himself to another employer in the same line of business, and he virtually offers to increase the weekly output of this other man's mill by seven-tenths of a case of goods. He is virtually offering that quantity of goods for sale and if one employer will not pay for it, another probably will. The productive power of a unit of labor determines the pay of a unit. That is the rule, and the conditions of the market are a rude means of testing and enforcing it.

This is more than a mere theoretical truth. It describes indeed what would take place if economic forces operated in perfection. With labor ideally mobile and with competition ideally free, this result would be accurately reached and the pay of every worker would perfectly correspond with his true productive power. With all the disturbances that economic laws encounter, *the standard about which wages fluctuate* is the one that is described in the theoretical case. The pay of a weaver, a dyer, a molder, a puddler, *etc.*, is his true product plus or minus something, and the plus or minus quantity is determined by the obstructions which the general economic law encounters. It is the duty of the economist, after ascertaining what is the standard of pay, to study the obstructions which cause rates to vary from it. There is a limit to the deviations from the standard which wages show. Under the present system of adjustment they hover about it, and a court may be able to make wages conform still more nearly to the standard, and that too *without consciously appealing to it or even knowing what it is.*

If tribunals give about the same rates that generally prevail, they will at least insure a rough approach to what is normal, and the service which they will then render will be the saving of waste and the ending of strife. What we need to know is, under what conditions courts can act in this way, and under what conditions they can do more and give a better distribution of wealth than can be had without them.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Labor unions are justified by the necessity for collective bargaining between employers and employed. The organization of unions places on fairly equal terms the parties in the contract by which men are hired. With one corporation owning the industrial capital of a village, and with the labor unorganized, the men may compete with each other for employment, while the capital cannot compete with itself, but acts as a local monopoly. In hiring any particular man the company can utilize the fact that it does not need him, and if he does not want to work on the terms that it offers, it can get another man to take his place. A few men out of employment may serve to bring down the wages of a large number. The few may make it impossible for the many to exact pay that corresponds with their productive power. Men must have work if they are not to starve, and they will lower their demands till they get it. If the employment of these men displaces others who were better paid, those who are newly displaced may go through a similar discipline till their needs force them to accept work on equally low terms. Others, again, take their place in the company of the unemployed, and thus, by a sort of rotation, the force of workmen can be dealt with in detail and made to accept unnaturally low pay. The lever which a slight excess in the number of laborers puts into the hands of a monopolistic employer may thus be worked most effectively, with a result that is disastrous for working men.

Such was the original and generally sound reason advanced in justification of the organization of labor. It checks this rotation by which a few men out of work cut down the pay of many who have work. Unions cause wages to be fixed, not by what some man who is helpless and needy may be willing to take, but by what a whole working force can be replaced for. If the union strikes and the mill is deserted, the few men who could be gathered together from the vicinity would not enable it to run. A large force would have to be secured; and if this force could be had only by hiring men from other employments, it could be had only for a rate of pay that more nearly corresponds with its productive power. If the employer, instead

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of taking on his own terms the labor of a few hungry and unfortunate men, must hire on their terms men who have other employments open to them, he must pay something that is near to the natural rate of wages, as it is determined by the productive power of labor.

What is true of a local organization of labor acting in a circumscribed market is true of a national organization operating in a large country. Make the union big enough to include most of the workers in the country, and it can do in the large field what the small union did in its locality. It can put employers and employed on a certain strategic equality in their dealings. The great mass of capital will deal with a correspondingly great mass of labor, and the presence of men here and there out of work will not disastrously cut down the wages of the entire force. If a strike occurs on a national scale, and the employing corporation seeks an entirely new force of men, it must get them by hiring those who can command a rate of pay approximately that which their productive power merits.

Without union, the rate of wages would fluctuate below its standard, like the wavy line below the line *A B*.

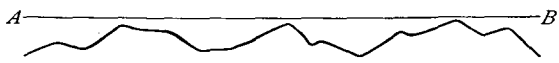

FIG. 1.

Men's actual pay might approach a fair rate again and again, only to fall away from it. With union the actual rate might vary about the fair one as the wavy line passes now above and now below the line *A' B'* of the second figure.

FIG. 2.

This assumes that no force is used by union workers in fighting off competing men. The freedom of every man to work where he pleases is respected. The men in mills are organized, and when they strike the mills are completely vacated; but nothing is done to terrorize or injure new men who may come to run it. The power of the strike lies in the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fact that the union is large, and that outside of it trained men cannot be had in numbers sufficient to fill the places which are vacated, while even untrained men of good personal quality can be had only at a fair rate of pay. A purely economic power is thus at the disposal of the labor unions, and there is in the using of it nothing that savors of monopoly. What the men gain they gain by making competition fair instead of unfair.

This gives us, however, only a starting point in the study of trade unions as they are and of strikes as they actually take place. The condition is not thus normal. While labor is incompletely organized the trade union is under a strong pressure impelling it to do more than merely strike for higher pay, in the confidence that good men from elsewhere cannot easily be had to occupy the vacated positions. At present men of fair quality can often be had for this purpose, and in threatening and attacking these men strikers have the feeling that they are defending what is their own. Nothing would seem to be clearer than that working is an innocent act and that every man has the inalienable right to perform it. Attacking a man for working where he is wanted is certainly lawless, and the policy of permitting such attacks is, as we have said, surrendering to a sort of anarchism. Shall we apologize for this and try indirectly to legitimate it? To some extent the public does tolerate it; and the reason for this is, that it perceives that to allow "strike breakers" to be gathered from various parts of the country and brought to a section where a strike is pending, is to restore the condition from which workers were originally delivered by the formation of local unions. The general unions are not now large enough to accomplish by mere numbers their purpose of making it impossible to fill their places when they strike. If, thanks to cheap transportation, a force can be made up of men who have been out of work and are needy, what they will take is no fair gauge of what labor can produce and ought to get. The public permits coercion to go to a certain length because in its "subliminal consciousness" it perceives that otherwise even organized labor cannot always appeal effectively to a natural law

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of wages. What it can get may fall short of what it produces. Some perception of this fact is at the bottom of the half-recognized right of tenure which workmen claim in connection with their positions. The unionist feels justified in calling by a vile name a man who "takes his job." The right of this other man to work seems clear, and yet in the public mind there is a dim recognition of a property right in the position. Employers partly recognize this when they do not try to scale down wages to the lowest amount that men can be hired for. There is coming to be an established difference between what organized labor gets from successful employers and what idle men will take. This difference, if it is legitimate, affords a key to the solution of the problem of arbitration. We may assume, for the moment, that what needy men can be hired for is less than what labor normally produces, and that to make that abnormally low rate the standard of wages is to injure the entire working class. We may assume that a trade union which is not a powerful monopoly and does not sustain the pay of its members too far above this standard gets about what labor, of the grade that it represents, actually produces. We may further assume that a very powerful union, which limits the number of its members and successfully clubs off all competing labor from its field, may get wages that are distinctly above the natural rate as fixed by productivity. These assumptions rudely correspond with present facts, and the problem is how to avoid two intolerable conditions between which we are now choosing. If competition is allowed to work in the harsh form in which workers have learned to dread it, wages will be abnormally reduced; while if it is prevented from so working by cudgels and brickbats, the result is a kind of anarchy on the civil side and, on the economic side, monopoly, by which a few workmen make gains at the cost of the many. What we actually have is a limited amount of anarchy on the one hand, and on the other monopoly which the public endures because it now has no way of reaching a certain result without it.

Constituted, as courts of arbitration would be, of representative laborers and employers, they would be in no danger of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

establishing the lowest rate of pay for which men could be hired. If workmen, employers and the public now recognize the claim of union men to more than this amount, the courts will of course recognize it. They will not lay down the principle that the least that any man will take is the most that others can claim. On the other hand, will they sanction the "grabs" that some unions, by crude force, are able to make? That would be legalizing the quasi-robbery of one part of the working class by another. Would they apply independent and scientific tests to determine how much is produced by labor of each grade and announce decisions based on the result? They would clearly be unable to do this, since there is available no such extensive economic laboratory as tests of this kind would require. The only laboratory available is actual working society, and by the aid of this a court could arrive at a fair result. It could, for example, ascertain what is the average pay of labor that is efficiently organized and yet is not monopolistic, and it could make this amount the general basis of its awards. It might treat as legitimate a certain difference between the pay of union labor and that of other labor, while setting a reasonable limit on the amount of this difference. Courts of arbitration could ascertain whether a particular union is or is not building a fence about its field of labor and arbitrarily excluding men who have a natural right to enter it. In short, they could invoke that common-law principle which is destined to be the sheet anchor of every state in the turbulent sea which modern industrial conditions create, the principle, namely, that monopoly is everywhere contrary to public welfare: conceding to unions all that they can gain without becoming monopolies the courts could deny to them whatever can be had only through the principle of exclusion and extortion. This could be done by taking as the standard on which awards shall be based the rates of pay that men generally get by the aid of unions that put no artificial barrier in the way of the natural movements of labor. Under such a system as is here suggested there would still be a market for labor, and in that market wages would be adjusted by a play of natural forces. Competition would be greatly modified,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but it would not be extinguished, and free contracts between employers and employed, without any resort to tribunals, would in most cases adjust rates of pay.

The system of arbitration under which New Zealand has had six years of peace precludes monopoly at the outset, as an antecedent condition of the adjudication. It provides that membership in the unions shall be freely granted to all who are competent to practice the crafts. We shall have to choose, in the end, between a system that in some way insures this result and one that relies on arbitrarily excluding men from trades for which they can easily fit themselves, — a system which, carried far enough, would fence one attractive avenue after another against young men in search of employment and force them into the crowded remainder of the industrial field, where the so-called "iron law of wages" would operate in all its severity. A genuine proletariat, living on the brink of starvation, is the natural result of allowing many trades, after completing their organizations and extending them over the whole country, to put arbitrary limits on the number of men who are allowed to learn and practice the crafts. An aristocracy of labor is admirable in so far as it is based on personal superiority, but far otherwise when it is based on exclusion and when it involves the creating of a hopeless proletariat.

The public will soon find, if it has not already found, that legitimating the system of taking possession of a field of labor and holding it by force will disturb the action of the natural law of wages in a new and disastrous way. The union may both restrict its numbers and limit the work which a member is allowed to do. It may thus turn young men into other fields of employment, crowd those fields and make nominal wages low, while at the same time it makes its own products dear and so reduces the real pay of every worker who has to buy any of them. The really natural standard of pay lies between the amount that idle men may here and there consent to take and the amount that a union which guards its monopoly by force may be able to extort; and it lies at about the level of what a union that is extended and efficient but not monopolistic can

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

get. The standard that is so indicated would be one which well-constituted courts would recognize. They would not give the smallest amounts that would be accepted by destitute men nor the largest amounts that an exclusive union might extort, but would rather give about what men in a normal union could produce and get; and there is little doubt that in thus acting they would keep the pay of labor at least as near its natural level as it now is. They would afford some approach to the state in which the shoemaker would get his fair share of the value of the shoes made in the mill that employs him, in which miners would get a fair share of the value of coal and weavers a just portion of the value of cloth.

Such a régime would put a premium on the formation of unions and would probably cause them to be greatly extended. That is a result eminently to be desired. Fighting against the extension of union is fighting against what is inevitable and highly desirable. If unions were formed in every employment, if they admitted to their membership all qualified applicants and if they were incorporated and financially responsible, there would be little difficulty about adjusting the rate of pay in any trade. What responsible unions would generally get would be a fair rate of pay, and tribunals of arbitration under such a régime would have a comparatively easy task. There would be little trouble in ascertaining what rate is fair. Such a régime is still in the future; at present we are offered the choice between wages adjusted by irregular force and wages adjusted by the action of some kind of tribunal. Sooner or later we shall choose the more regular method, and whoever perceives the drift of recent events will be apt to say that it should be sooner rather than later. Wages kept down by the hardest action of competition we shall not tolerate. Wages sustained by crude force we are, within limits, tolerating. As between courts and mobs we are relying on mobs, but this is only because we have not ourselves proved the efficacy of courts. The evidence is in favor of their efficacy, and there is little doubt that we shall ultimately have them.

JOHN BATES CLARK.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE INDUSTRIAL COMMISSION ON TRANSPORTATION.

WITH the endless making of books it is possible that the authority of the printed page has so far suffered diminution that the individual author who chooses to trifle with his reputation can do so without any very reprehensible violation of obligations voluntarily assumed. But however slight may have become the responsibility attaching to private authorship, reports prepared and published at the expense of the government of the United States still seem, to a vastly preponderating majority of citizens, to bear a federal certificate of accuracy. The nineteen volumes which report the labors of the Industrial Commission have been printed in a large edition[1] at public expense and widely distributed without cost to the recipients.

The concluding volume, which is mainly descriptive and a part of which is the subject of this paper, will be read during long winter evenings in thousands of farmhouses and in innumerable homes of mechanics and professional men. It will be quoted as an authority in the editorial columns of hundreds of newspapers of influential rank, by partisan speakers in many future campaigns, by public lecturers and in the discussions of countless agricultural and labor organizations. Teachers in universities, colleges and secondary schools will refer their students to its pages with suggested confidence in its reliability. Relatively few of its readers will have any adequate knowledge of the personnel of the commission, and to many of them the fame even of the experts in its employ will be but a vague and colorless impression. Few, however, will fail to have an exalted conception of the government of the United States, and far

[1] 10,682 full sets have already been ordered and many of them distributed. A resolution is now pending in the Senate which, if adopted, will provide for another edition of 15,000 full sets and for 30,000 additional copies of vols. xvii and xix.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

too unanimously they will have unquestioning faith in the substantial inerrancy of whatever may emanate from its bureaus of investigation and publication.

The final report on transportation[1] is a document of 226 pages, of which the last four consist of recommendations for legislative action. The student would naturally expect to find in its pages a concise and logically arranged summary of the salient facts established by the testimony on the topic which was taken by the commission[2] during its life of more than three years, this summary constituting at least a formal basis for the recommendations with which it closes. As a matter of fact, the recommendations appear not to have been written by the author of the rest of the report, and the latter has no definite or distinguishable connection with the evidence in the earlier volumes. It seems scarcely possible that the author of the recommendations ever carefully read the comprehensive review of the railway industry by which they are immediately preceded;[3] and this review contains very few references to the testimony, while many of its statements are so erroneous that it seems certain that they must have been formulated in a spirit of entire independence of the declarations of competent witnesses. The absence of a logical nexus between the recommendations and the rest of the report is most evident in the treatment of the subject of railway agreements for the division of competitive traffic, commonly known as pooling contracts. Twenty pages of the review are devoted to the discussion of

[1] Report of the Industrial Commission, XIX, 259–484. Washington, Government Printing Office, 1902. Further references to this portion of vol. xix, in this paper, will give the page only. The review of the evidence is understood to have been drafted by Dr. W. Z. Ripley of Harvard University, who was employed as an expert in transportation by the commission, and to have been subsequently revised by the commission. The commission never announced the original authorship of the review, but Dr. E. Dana Durand, its secretary, did so in a footnote to an article in the *Quarterly Journal of Economics* for August, 1902, p. 572.

[2] This testimony occupies 1873 pages in vols. iv and ix of the report.

[3] Dr. Durand states the case rather euphemistically as follows: "... the reader must often search with considerable care in the long reviews to find the arguments in behalf of the proposals; and his mind may be full of unanswered queries as to the actual application and working of the policies proposed." — *Quarterly Journal of Economics* (August, 1902), p. 574.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the nature and consequences of these arrangements, and the subject is frequently alluded to in other places. Yet no word among the recommendations indicates that there is an anti-pooling clause in the Interstate Commerce Law, or that the Anti-trust Law has been construed as applicable in a most drastic manner to railways, or that there is before the American people any such problem as whether railway corporations shall again be permitted freely to contract among themselves. There is no allusion in any recommendation to the restrictions imposed by these statutes, although the review of the railway industry clearly shows that they should be removed and that pooling under proper federal supervision should be permitted, and many witnesses, including at least one member of the Interstate Commerce Commission, testified before the commission that the restrictions in question are the principal present source of rate demoralization.[1] The absence of a recommendation concerning pooling is so certain to attract the attention of readers of the report, and it is so apparent in this and in other respects that its recommendations are not actually supported by the review of the industry, that most persons, even among those to whom the fact of its governmental origin seems a most unquestionable guarantee of reliability, will probably pay little heed to the specific legislative proposals with which the report concludes, but will seek to form their own opinions concerning the measures that are desirable from the body of the report. The general public will not have time to peruse the voluminous evidence and will place little reliance on the obviously unsupported recommendations, but will accept with little hesitation the statements of fact and the conclusions therefrom in the final review of the railway business.[2]

[1] Testimony of Hon. Martin A. Knapp, Report, IV, 138.

[2] In regard to the omission of a recommendation concerning pooling, Dr. Ripley said in an authorized interview which was published in the *Railway World* of March 8, 1902: "The failure to recommend specifically a repeal of the present prohibition of pooling contracts was as great a surprise to me as it must have been to the *Railway World*. In my judgment it was a decidedly unfortunate move on the part of the commission. It is absolutely out of harmony with the review of evidence presented in the final volume. I am unable, in fact, to account for the omission of such a recommendation respecting the repeal of Section 4. Up to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

How then does that portion of the document which is probably to exercise a great influence upon popular opinion and

within a very few days of publication, such an item occupied a prominent part in the recommendations as drafted. For some unknown reason it was eliminated at the last moment, leaving the recommendations as they stand, with no mention whatever of pooling. No greater error could have been committed by the Commission." Being asked how he could account for the failure of the commission to recommend the repeal of the prohibitive clause, Dr. Ripley said: "I can account for it on no other ground than that it was in response to the unreasoning popular prejudice against so-called *combinations*, whatever form they may assume. The existence of this prejudice is certainly most unfortunate for the advancement of salutary railroad legislation in the United States." On the same subject Dr. Durand said, in the *Quarterly Journal of Economics* for August, 1902: "The first drafts for these reviews in the final report were prepared, for the most part, by expert agents of the commission . . . . The commissioners spent three or four months, however, in going through these reviews in detail and statements or arguments which did not commend themselves to the majority were modified, sometimes very radically . . . the signatures of the commissioners apply to the recommendations only and . . . no particular member is necessarily committed to the statements or reasoning in the reviews . . . . One result of the method of procedure described is that the recommendations . . . are not always consistent with the immediately preceding reviews . . . . The most conspicuous illustration of such discrepancy . . . is with regard to railway pooling. The discussion in the review drafted by Professor W. Z. Ripley had been considered with unusual thoroughness by the Commission in fairly well-attended sessions, but was finally left by them largely as submitted. It was a strong argument in behalf of permitting pools, subject to the supervision of the Interstate Commerce Commission as to rates. A brief paragraph to the same effect was contained in the original draft of the recommendations, but during the discussion later it was bodily omitted without any modification of the argument in the review. It is curious to note, as indicating the rather slipshod methods of such bodies in their deliberations, — for similar occurrences are not uncommon among Congressional committees, — that several of the members of the Commission who were present when the recommendations of transportation were being discussed, declared, after the publication of the report, that they had not been aware of the omission of the paragraph, and that they still believed a majority of the members favored pooling." The author of this paper is permitted to quote the following from a personal letter addressed to him on March 14, 1902, by Hon. J. L. Kennedy, one of the members of the commission: "I was not in favor of legalizing pooling. I believe that to recommend it would be a work of supererogation. To my mind the question of pooling is a vanishing one. It has been vanishing rapidly since the Supreme Court's decision under the Sherman law. That law has forced the condition legally which it was set up to make unlawful. Combination and merger are doing most effectively the work which makes so-called legalized pooling unnecessary. Many railroad men have admitted this to me. Believing it myself, and having that belief reinforced by expert opinion, I should consider myself weak indeed if I had accepted ——'s opinion and indorsed it as a legislative recommendation to Congress."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

perhaps upon legislation bear critical inspection? If the answer is dependent upon the accuracy of the statements of fact, it cannot be very favorable. A few only of the errors will be specified. The report states[1] that the average revenue per ton per mile of the Illinois Central Railroad during the fiscal year which ended with June 30, 1900, was 0.935 cent, and specifies in detail the average figures for wheat, flour, sugar cane, soft coal, stone and sand, furniture and merchandise. None of these figures is correct. The Illinois Central does not make public its average receipts from particular commodities, but its general average for the year named was 0.650 cent[2] per ton per mile, or 30.48 per cent less than the figure given in the report. It is not true that, as stated,[3] the Erie Railroad is the only important one which, in being reorganized after the panic of 1893, escaped dismemberment. One scarcely needs to have been especially interested in the making of recent railway history to recall that the Baltimore and Ohio, the Norfolk and Western and the Southern Railway passed through the same process without reduction in mileage. The same paragraph asserts that the reorganization of the Union Pacific resulted in the loss of its control over the Oregon Short Line; but that is not the fact,[4] as will quickly occur to any one who recalls that through its control of the latter the former was able to transfer to it a large portion of the financial burden entailed by the purchase of the stock of the Northern Pacific which preceded the speculative panic of May 9, 1901. The Pennsylvania Railroad does not operate the Western New York and Pennsylvania by virtue merely of "the control of a majority of its stock,"[5] but under a lease executed after the purchase of substantially all the outstanding shares.[6] The Allegheny Valley Railway, of

[1] P. 275. None of these averages is to be found in the testimony as applicable either to the Illinois Central or to any other railway.

[2] The Interstate Commerce Commission, Thirteenth Annual Report on the Statistics of Railways, pp. 386–387.

[3] P. 305.

[4] The Union Pacific owns about ninety-nine per cent of the capital stock of the Oregon Short Line. See Poor's Manual of Railways for 1901, p. 591.

[5] P. 307.

[6] On December 31, 1900, the Pennsylvania Railroad owned Western New York and Pennsylvania stock having a par value of $19,402,686.50 out of a total issue

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which the next sentence declares that the Pennsylvania secured control "two months later," was leased by the latter on July 14, 1900, for a period of twenty years, beginning with August 1 following; but it had long been controlled through ownership of its capital stock and had been for many years an integral part of the Pennsylvania system, although maintaining a separate operating organization.[1]

In treating of certain recent railway combinations the report says that the terms of the purchases "did not differ in principle."[2] The facts of the cases referred to are as follows:

The control of the Central Railroad of New Jersey was obtained by the Reading Company by the purchase, during February, 1901, of shares having a par value of $14,500,000, or fifty-three per cent, out of a total of $27,213,800. The purchase was paid for in cash, which was obtained by issuing collateral trust bonds to the amount of $23,000,000, with interest at four per cent per annum, secured by the deposit of the shares bought and certain other securities having a total par value of $1,935,000.[3] The Reading Company is not an operating corporation, but controls the Philadelphia and Reading Railway through the ownership of its stock. In 1898 the New York Central and Hudson River Railroad, which is an operating concern, obtained substantially all the stock of the Lake Shore and Michigan Southern[4] by exchanging therefor its collateral trust bonds bearing interest at the rate of three and one-half per cent per annum.[5] The Burlington was purchased during 1901 jointly by the Northern Pacific and Great Northern, which paid for it at

of $20,000,000. The road was originally leased to the Pennsylvania for two years from August 1, 1900, the stipulated annual rental being the net earnings. See Poor's Manual of Railways for 1901, pp. 691, 705. The lease has been renewed for one year.

[1] Poor's Manual of Railways for 1901, p. 696. A majority of the capital stock and about one-fifth of the outstanding bonds of this company were owned by the Pennsylvania on June 30, 1889. See The Interstate Commerce Commission, Second Annual Report on the Statistics of Railways, pp. 146–147.

[2] P. 310.

[3] Poor's Manual of Railways for 1901, pp. 75, 143, 145.

[4] On June 30, 1901, it owned $45,280,200 in par value, or 90.58 per cent of the total of $50,000,000. See Poor's Manual of Railways for 1901, p. 126.

[5] *Ibid.*, 1898, pp. 567–568.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the rate of $200 per share, or double its par value, in their joint collateral trust bonds bearing four per cent interest, or, to the extent of forty per cent of the amount purchased, in cash at the option of the vendors. The underwriting syndicate agreed to take all of the stock offered, and by the end of October had accumulated ninety-six per cent of the total outstanding.[1]

Thus it appears that in the case of the Central of New Jersey the control was bought for cash at 165 per cent of par, and only barely enough shares to afford such control were taken, leaving a compact and substantial minority interest; that no general offer to accept all stock tendered was made; and that the control was obtained by a company which does not operate a railway, but controls a great railway system as well as extensive mining properties through its stock holdings. On the other hand, in both the Lake Shore and the Burlington purchases all stock offered was taken at double its par value; but in the one case the payment was wholly in bonds, and in the other at least sixty per cent was so paid. In the Lake Shore case the purchase was by an operating railway corporation, and in that of the Burlington it was the joint act of two such corporations. Whether from the point of view of the public or of the vendors or vendees of the properties affected, these differences appear substantial and important.

There is no such railway as the "New York, Lake Erie and Western," which is declared[2] to have been acquired by the New York Central system. The road formerly operated under that name was reorganized on November 30, 1895, as the Erie Railroad.[3] It was never controlled by the New York Central or any of the affiliated corporations, or by the Vanderbilt family or any of its members or business associates; and in attempting to secure such control Commodore Vanderbilt experienced the most crushing defeat of his career.[4] The Pennsylvania Railroad

[1] *Railway World* (October 26, 1901), p. 1210.

[2] P. 306.

[3] Poor's Manual of Railways for 1901, p. 94.

[4] The reference in the report is probably to the Lake Erie and Western, a much less important line, which is controlled by the Lake Shore and Michigan Southern. Poor's Manual of Railways for 1901, pp. 273, 279.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

never leased the Chesapeake and Ohio for 999 years[1] or for any other period, and its only legal relation to the latter is through the ownership of much less than a majority of the capital stock. The Chesapeake and Ohio has never been leased to any corporation. The statements[2] that "the New York Central owned 91.5 per cent of the stock of the Lake Shore and Michigan Southern road prior to its absorption" and "at the same time owned eighty-six per cent of the stock of the Michigan Central" are both contrary to well-known facts. The New York Central owned none of the shares of either company as late as June 30, 1897,[3] although both had been operated as parts of the Vanderbilt system for many years. The only connection between these three corporations prior to 1898 was that each was under the domination of the Vanderbilt family.

The Joint Traffic Association ceased to exist many years ago, and the winding up of its affairs began immediately after the adverse decision of the United States Supreme Court in what is known as the Joint Traffic Association case;[4] yet the report declares[5] that "it continues to perform many functions of a coöperative character." The legality of railway pooling was never directly passed upon by a United States court, prior to the enactment of the Interstate Commerce law which forbids it, and it has been sustained in England,[6] where such contracts are regularly resorted to, as most students of transportation are aware. The report, however, states[7] that "pooling contracts have frequently been held illegal by United States and English courts." Competitive folly has led to many strange things, but it has not yet committed the costly absurdity of running "three passenger trains every hour during the day between Chicago and Omaha over three rival routes."[8] There are five instead

[1] As intimated on page 311. [2] P. 313.

[3] Poor's Manual of Railways for 1898, p. 568. After the "absorption," it appears from the same authority that on June 27, 1898, the New York Central held but 89.86 per cent of the Lake Shore stock and but 76.05 per cent of that of the Michigan Central.

[4] Decided on October 24, 1898. 171 U.S. 505. [5] P. 335.

[6] Hare *vs.* Railway Company, 2 Johnson and Hemming's Reports, 80.

[7] P. 338. [8] P. 346.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of three routes which seek passenger business between the cities named, and the total number of west-bound passenger trains leaving Chicago for Omaha on week days is fifteen, instead of seventy-two, or an average of three each twenty-four hours for each line.[1] The laws of Minnesota are no more liberal toward railway leases than toward railway consolidation accomplished by other means; but the contrary is the only possible inference from the statement concerning the development of the Great Northern system that appears on page 311. "Hopper" cars "to carry 40 to 50 tons" are not necessarily of pressed steel, as declared,[2] but are frequently made of structural steel or of steel and wood combined. Again, it is not true, as alleged,[3] that the traffic director of the "Harriman" lines together with a like official for the northern or "Hill" lines (who in fact has never been appointed) would between them "control absolutely the entire traffic policy of all the transcontinental lines in American territory." The Atchison, Topeka and Santa Fe has no connection whatever with either system, and at the time the report was written the Chicago, Rock Island and Pacific was being extended to a connection with the Southern Pacific at El Paso, which has now been effected. The latter road is now engaged in transcontinental business; and thus, if we include the Canadian Pacific, which, although located in Canada, accepts business from and to American territory and is always an active competitor with the domestic routes for such traffic, there are now three routes that are not in any degree under the control of either Mr. Harriman or Mr. Hill, as against five which they control. It is also well known that the Chicago, Milwaukee and St. Paul is ready to build to the Pacific coast whenever its interests demand such an extension, and this potentiality strongly influences the situation.

A further study of the report suggests the reason for the appearance of such readily avoidable errors. Apparently the commission permitted methods which did not involve either

[1] The Official Guide of the Railways and Steam Navigation Lines of the United States, Porto Rico, Canada, Mexico and Cuba, April, 1902.

[2] P. 293. [3] P. 328.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reliance upon the testimony collected or careful scrutiny of the data utilized. This slackness of method is illustrated by the incompleteness of the treatment of many of the subjects. Thus the table which gives railway tonnage classified by commodities[1] would have been much more significant had the similar data from the censuses of 1880 and 1890 been utilized in connection with it; the table on page 276, credited to the McCain Report on Transportation Rates,[2] and including statistics down to 1892 only, might have been completed by correspondence with the author of that report or with the officers of the Trunk Line Association; and the table on page 330, which stops with the first half of 1899, might have been extended through the subsequent years from the records of the Central Traffic Association. Again, the report[3] compares the receipts per ton per mile of certain railways in 1900 with those in 1901, and then declares that the comparison, to be of value, "should be instituted between the years 1899 and 1901"; but the author does not make the comparison. An equal disregard of the obligations of public authorship is shown in the treatment of railway capitalization.[4] The figures for 1890, as stated by the statistician to the Interstate Commerce Commission in his report, are employed, without deducting current liabilities, in a comparison with the figures for 1900, when current liabilities were deducted; and this in spite of the express recognition of the fact that such neglect impairs the value of the comparison.

From the point of view of transportation theory the report is equally disappointing. For example, one reads[5] that "another criterion of the economy of railroad operation is the ratio of operating expenses to earnings from operation." This expresses a belief long current among investors but now pretty thoroughly discredited. Its superficial logic has misled many investors and resulted disastrously to many railway properties. Operating

[1] P. 266.

[2] Wholesale Prices, Wages, and Transportation. Report of the Committee on Finance of the United States Senate, Senate Report No. 1394, 52d Congress, 2d session, pp. 397–658.

[3] P. 284. [4] P. 400. [5] P. 297.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

expenses represent repairs and renewals of property as well as the cost of doing current business; and while a very low ratio may mean extremely economical methods, it is at least as likely to mean that current depreciation is not being offset by repairs and renewals; in other words, that the capital invested is being impaired or withdrawn. This possibility is now generally appreciated, and it is fortunate that the influence of the Industrial Commission is not likely to be sufficient to cause a recrudescence of discarded opinions on this point. Again, it is generally known that many railway expenditures, including payments on account of capital as well as some of those required for operating purposes, are made on the joint account of all or many of the transportation services performed, and that, in consequence, they do not increase in proportion to the increase in traffic movement; but it is grossly misleading to assert that "from two-thirds to three-fourths of the expenses of railroad operation are *entirely independent* of the amount of traffic moved."[1] Even fixed charges, although they respond sluggishly to changes in the volume of traffic, are pretty certain to be affected sooner or later by increases or decreases which are great enough to suggest the investment of further capital or the withdrawal of some of that already employed. Such expenses as those for maintenance of way and equipment and for signalling, usually and properly regarded as not susceptible of apportionment among different services, are very plainly affected by the volume of traffic, although it may be exceedingly difficult to perceive or measure the effect of a particular increment.

Nor is the report more satisfactory when attempting to apply the conclusions of economic philosophy to the facts of transportation. It contains but one statement that is strictly within the domain of theoretical economics:

A railroad presents one of the clearest examples possible of an industry subject to the law of increasing returns — that is to say, an industry in which the total cost of operation increases less in

[1] P. 277. The italics are not in the original. The statement is repeated in almost identical terms on page 286.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

proportion than the amount of business transacted. This means, conversely, that the net returns increase more rapidly than the expansion of traffic.[1]

An industry or an enterprise is in a state of conformity to the law of increasing returns when the average productivity per unit of an additional increment of labor or capital would be greater than that of the labor or capital already employed. The increment of labor or capital would be measured as so many hours or days of work or as so many dollars of capital (more accurately perhaps, as so many machines or other special forms of capital goods), and not by the amount paid as wages or interest. Similarly the "returns" referred to are not gross receipts from the sales of product or net income from business, but units of product. The law of increasing returns asks nothing concerning cost of production, as the latter is popularly and unscientifically measured, in dollars and cents, and affords no conclusion concerning the rate of profit. It relates to the technique of special industries, as expressed in the physical relations of capital and labor to production, and it really belongs, with the complementary laws of constant and diminishing returns, among the postulates rather than the principles of economic science. It implies diminished cost of production per unit when the increased productivity is not wholly offset by changes in wages or interest rates; and it implies increased profits when the increased productivity is supplemented by a demand sufficient to maintain prices at the old level, or at least to prevent their falling so low as to balance the decreased cost. The first sentence of the statement quoted above misstates, therefore, the law of increasing returns by assuming that it necessarily involves decreased money cost, and even further by regarding it as referring to but one kind of cost, that incurred for operation. The second sentence is even worse. It carries along the baseless assumptions of the first, and completes the error by adding the unreasonable presumption that prices will remain substantially unchanged after the new product is put upon the market. The law of increasing

[1] P. 286.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

returns is thus transformed into one of increasing profits, and the subsequent discussion is controlled by this erroneous generalization. No student of economics will fail to see how seriously the acceptance of such a statement of the law of increasing returns would restrict its field and decrease its value. Its consequences are now studied in their relation to wages rates, interest rates and prices, but the acceptance of the Industrial Commission's interpretation would complicate the law itself with every incident that may affect either wages, interest or prices, and would remove it from its position among the early and fundamental generalizations concerning production to a much less useful place among the most complex problems of distribution.

The railway industry, as generally conducted, does conform to the real law of increasing returns, although not nearly so universally as is commonly supposed. American railways can generally produce additional transportation without proportionate additions to the labor or facilities employed. Their business does not conform, however, to any such law as that formulated by the Industrial Commission. They cannot sell additional transportation without reducing their rates; for the market for railway services, like any other market, will take but a certain quantity at a fixed price, and in order to augment sales prices must be reduced. There can be no reasonable doubt that the difference between operating cost and revenue per unit of railway transportation has been very considerably diminished within the last decade as an incident of increasing volume of traffic.[1] The progress of the railway industry has recently involved the rapid substitution of capital cost for labor cost. Improved roadbeds and heavier rolling stock mean greater capital expenditures for the sake of securing increased labor efficiency. They unquestionably decrease the cost of

[1] The data on next page relate to the Pennsylvania Railroad and all roads directly operated by it. The division of expenses between passenger and freight service is statistically unsound, worthless and misleading, but taking the data together they throw some light on the subject under discussion. The figures are from Poor's Manual of Railways for 1901, pp. 681, 682. Those for 1865, 1870 and 1875 are in currency.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

producing the average unit of transportation or they would not be incurred; but the aggregate decrease is much less than the amount which would represent the difference between operating expenses under the old and under the new method. Capital charges are a part of the cost of producing transportation which must not be ignored. Yet following the incorrect and misleading statement of the law of increasing returns that has been quoted, the report continues at considerable length to attempt to prove that "an increase in the volume of business upon a railroad does not involve a corresponding expense in cost"[1] by data showing that operating expenses have not recently increased as rapidly as gross receipts. It is difficult to imagine what would be the net result, in legislative folly, of the general acceptance and application of such theory as this.

It is desirable to take up some of the principal topics discussed in the report and to ascertain what, if anything, has been contributed to the solution of the problems that they present. Among the most important subjects treated are (1) pooling, (2) the progress of rates, (3) discrimination in rates, (4) consolidation, (5) competition and (6) capitalization.

(1) Pooling is accurately and clearly presented, and the discussion leads inevitably to the conclusion that pooling, if under

Year.	Passenger Service.			Freight Service.		
	Receipts per Passenger per Mile.	Expense per Passenger per Mile.	Difference.	Receipts per Ton per Mile.	Expense per Ton per Mile.	Difference.
	Cents.	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*
1865	2.748	1.855	0.893	2.715	2.347	0.368
1870	2.568	2.125	.443	1.503	.983	.520
1875	2.573	1.799	.774	1.126	.709	.417
1880	2.222	1.674	.548	.918	.540	.378
1885	1.950	1.466	.484	.695	.460	.235
1890	2.077	1.504	.573	.655	.463	.192
1895	1.953	1.591	.362	.563	.397	.166
1900	1.980	1.465	.515	.540	.364	.176

[1] P. 286. Probably the word "expense" in this clause is a misprint for "increase."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

proper official supervision, would greatly relieve the present railway situation. One reads that

> the primary purpose of the Act to Regulate Commerce in 1887 was probably the elimination of discrimination in freight rates. No other feature of railroad business, except possibly mistrust as to over capitalization and exorbitant charges, occupies so prominent a place in the public mind;[1]

and again, that since 1887, when pooling was first prohibited, the strife for traffic has frequently produced

> . . . periods of abject demoralization characterized by rate wars almost as severe as at any time in our history . . . these contests among railroads . . . always involve personal discriminations of the most iniquitous form.

It is declared that the "plain issue involved, in short, is of stable as against fluctuating rates";[2] and in another place that

> so long as all shippers pay the same amount for equal service, and so long as rates are steady, so that contracts may be confidently based upon them, the absolute amount paid, be it high or low, is of relatively small importance to the shipper . . . .[3]

When, therefore, these declarations are supplemented by the definite statement that personal discriminations can be abolished only by the removal of "unreasonable and unreasoning competition" — which is assigned as their direct cause[4] — and that pooling, which would remove such competition, would relieve the railways from the "incubus" of shippers' dictation in such matters as the mileage rates to be paid for private cars,[5] the net result of the argument appears extremely favorable to pooling. These are the high points of the discussion, and the view which they afford approves itself to those best informed.

On the other hand, it is unfortunate that the report contains no definite expression concerning the only serious and genuine evil attaching to pooling, *i.e.*, the incentive which it offers to the overproduction of railway facilities. The existence of a powerful and profitable pool enables those who would blackmail industry by the construction of unnecessary lines to address

[1] P. 349. [2] P. 344. [3] P. 365. [4] P. 366. [5] Pp. 362–364.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their demands to a compact group which can usually better afford to concede something than to permit the inauguration of a struggle. This danger must be guarded against, so far as practicable, if the pooling privilege is ever legally restored.

Again, there is no possible excuse for discussing under the maliciously misleading title of "Railroad Pools Since 1887"[1] the railway associations that have existed since the enactment of the Interstate Commerce law. The evidence collected does not pretend to show that a real pool of traffic was ever attempted by more than one of the associations named, and it is admitted that even in this instance the agreement was never fairly in operation.[2] The great majority of the associations named existed merely for conferences concerning rates and regulations, the promulgation of rate schedules and the collection of traffic statistics. So far as the Interstate Commerce law is concerned, their legality was never questioned; and until the Sherman anti-trust law was applied to them in 1897 by the decision in the Trans-Missouri Freight Association case, their plans had received the uniform approval of the federal courts.

(2) The progress of freight rates is summarized in the statement that while from 1870 to 1900 there was, on the whole, "a substantial and very widespread reduction,"[3] which, however, was much less marked in connection with local than with through or competitive business, this steady downward tendency was interrupted in the year last named, when there was "a marked advance in the published rates."[4] Subsequently it is declared that the advance in "*published* freight rates in 1900 upon all the railroads of the country" was "probably not less than twenty-five per cent"[5] and that the evidence of the ton-mileage rates indicates that the advances since 1899 had been "substantial and general."[6] It is admitted that the claim that rates have advanced twenty-five per cent is not supported by the average earnings per ton per mile of the individual roads whose rates could be compared when the report was

[1] Pp. 334 *et seq.*
[2] P. 335.
[3] P. 280.
[4] P. 281.
[5] P. 285.
[6] P. 285.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

written, and that the figures in many of these cases show decreases;[1] but it is alleged that these averages are generally vitiated by including in the divisors by which they are controlled large amounts of "company freight," which moves free. The movement of this class of freight was exceptionally heavy during 1900 and 1901, in comparison with earlier years, and it is claimed that its inclusion diminished the averages so that they are not comparable, as representing rates paid, with those of earlier years.[2] The only trouble with this argument is that it is not based on a correct premise. "Company freight" is not included in the ton-mileage used to divide into freight receipts to determine the average rates per ton per mile. No important railway employs this deceptive method. The instructions for filling the schedules filed annually with the Interstate Commerce Commission have the effect of excluding ton-mileage of this class of freight from the averages reported.

The assertions in the following extract are at least sufficiently direct:

> There can be no question of a substantial increase of *published* freight rates all over the country. Our data establish this beyond question. If, then, the ton-mile revenue reported by the roads indicates a very much less percentage of increase, *the inevitable conclusion is that a great deal of freight is moving at less than the published rates.*[3]

It is necessary, however, to compare the foregoing with two subsequent statements that are equally explicit in terms. Only fifteen pages further along in the report it is declared that

> . . . . rates are not only higher, but by reason of harmonious action of the various roads they are being actually maintained. In other words, *rate-cutting is less prevalent than for many years.*[4]

And in another place the following appears:

> It is the universal opinion both among shippers and in railroad circles that the general rate situation in 1901, so far as rebates and

[1] P. 284.

[2] P. 285. "Company freight" consists of rails, ties and other railway supplies when carried over the lines of the companies to which they belong.

[3] P. 285. The italics are in the original.

[4] P. 300. The italics are not in the original.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

discriminations are concerned, is more satisfactory than at any time in the history of railroading in the United States. *With very few exceptions the published rates seem to be observed on all kinds of business.*[1]

Leaving this manifest and flagrant contradiction without comment and returning to the statement that published rates have increased fully twenty-five per cent, it is important to discover exactly what evidence is relied upon for its support. Fortunately the report is very explicit on this point. It declares that

> The peculiarity of these advances of 1900 is that they have been made, not by direct changes of tariffs, but by modifications of the freight classifications.[2]

The foregoing is followed by some three pages which describe the changes in the classifications and explain how the conclusion was reached that they produced a general advance of twenty-five per cent in railway rates. This process deserves analysis; for it is clear that if it is erroneous, the conclusion of the report is worthless. The method was adapted from the annual report of the Interstate Commerce Commission for the year 1900,[3] and the recital of facts and conclusions was almost bodily transferred. On January 1, 1900, a new official classification was promulgated by the railways north of the Ohio and Potomac and east of the Mississippi. It modified 824 of the ratings established by the classification which it superseded, and of the changes made 818 were advances from one class to another. This classification is applicable to traffic between Chicago and New York unless, as in the case of grain, live stock and dressed meats, special rates are provided. It contains about 10,000 items[4]; hence not to exceed $8\frac{1}{5}$ per cent of the total number were advanced. The Interstate Commerce

[1] P. 350. The italics are not in the original. [2] P. 281.

[3] Fourteenth Annual Report, pp. 14 *et seq.* But the Interstate Commerce Commission did not *state* that there had been an advance of twenty-five per cent. It asserted that there had been a general advance and *intimated* (*ibid.*, p. 20) that this amounted to twenty-five per cent by saying that "if rates can be advanced twenty-five per cent, they can be still further advanced by the same method."

[4] The writer accepts an estimate made by Mr. Michael B. Wild, a statistician employed by the Baltimore and Ohio Railroad.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Commission, however, utterly ignored the unchanged items and, applying the New York-to-Chicago rates to the items that had been transferred, ascertained that 434 had been advanced from the fourth to the third class, thus raising the rates applied to them between those points 42.8 per cent; that 214 had been taken from the third class and placed in the second, involving an advance between those points of thirty per cent; that 100 had been changed from the sixth to the fifth class, making an advance of twenty per cent; and that the other changes, affecting from one to thirty-two items each, had resulted in advances of from 16.6 per cent to 100 per cent. The rates between the same points on three items had been reduced thirty per cent and those on an equal number 14.3 per cent. The commission multiplied each percentage of increase by the number of items to which it applied and, dividing the sum of the products by 818, the total number of advances, obtained 35.5, which it declared to be the "average advance." Now this is about as bad a misuse of figures as could be devised. It not only ignores six items which were reduced and more than 9000 that were not changed at all, but it also rests upon the obviously incorrect assumption that the traffic movements of all items are equal in volume. The latter error would vitiate any calculation. Its extent is suggested to those in any way familiar with traffic movement by the fact that at least eighty-five per cent of the changes in the official classification related to the comparatively insignificant traffic that moves in less than carload lots.[1] Passing over this error, however, it will be instructive to see how the calculation would stand if all of the items in the classification had been included. This is shown in the table on the opposite page.

Thus a very simple and obviously necessary correction does away with all but 2.89 per cent of this advance of 35.5 per cent which has been exploited by two federal commissions. It by no means shows the real change, however, for that could be ascertained only by finding the precise importance of every

[1] P. 285. In fact, a principal purpose of the changes was to induce shippers to adopt the more economical practice of shipping in full carloads.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

change, or, in other words, the exact volume of traffic under each item in the classification.

Methods similar to those employed in connection with the official classification were applied to the two other great classifications by the Interstate Commerce Commission, and the Industrial Commission blindly followed its lead. These calculations constitute absolutely the sole basis for the statement that rates have advanced twenty-five per cent. No other evidence in support of this absurd contention has been or can be adduced. A general increase in freight rates of twenty-five per cent throughout the country would bring industry practically to a standstill. Its destructive consequences would be felt

	Number.	Extension.
Items advanced 35.5 per cent	818	29039
Items reduced 30 per cent	3	−90
Items reduced 14.3 per cent	3	−42.9
Items not changed	[1] 9176	0000
Total	10000	28906.1
Average change	2.89 per cent.	

in every quarter and the bankruptcy of the lines foolish enough to bring it about and persist in its maintenance would occur as soon as they could eat up the surpluses which they happened to have on hand when it was effected. No such threat has been directed at American industry from any quarter, and it never will be unless the direction of the railway business is sometime delegated to men whose qualifications have not been submitted to the competitive test through which leadership in that field is now attained. In all truth the evidence that is publicly available concerning the recent movement of the general level of railway rates is far from convincing. The changes in classification were undoubtedly made in the belief that the higher level of prices, affecting not only the

[1] Approximate.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commodities moved but the supplies necessarily purchased for railway use, justified some increase in rates, but intelligent investigation would show that the changes were not of sufficient number or importance to produce a very material rise. On the other hand, some very important rates, notably those of grain, live stock and meat products, were exceptionally low throughout nearly the whole of the year 1901.

It is an open question how far the testimony of average ton-mile earnings can be trusted in this connection. The ton-mile is the most satisfactory measure of the volume of freight traffic, but it is nowhere contended that it is an invariable unit. The average ton-mile of one period or of one railway or region may clearly differ very widely from that of another period, railway or region. A ton-mile of pig iron is a very different thing from one of buggies; the average ton-mile in a district of diverse tonnage and diffused deliveries, like the state of Connecticut, is not at all like that in a region of relatively homogeneous traffic and movement, like West Virginia; and there is a vast difference between the same unit for the New York, New Haven and Hartford, which is practically a terminal road, and for the Chesapeake and Ohio, which is very largely devoted to the transportation of bituminous coal. No well-informed person ever claimed that the differences between the average earnings per ton per mile of successive periods precisely measure the upward or downward movement in freight charges. Yet there is reason for believing that the changes in this average do throw a great deal of light on the course of rates, and that if the changes are great enough, they not only indicate its general direction but roughly suggest its extent. The average ton-mile is so broadly based, even when derived from the traffic of but one of the greater railway systems of the country, that it is scarcely conceivable that it could be subject to unexplained and very violent or rapid modifications; and when derived from the business of the whole United States, or even of one of the ten great districts that are used for classifying railway statistics, it is reasonable to regard it as substantially constant unless specific causes of variation can be adduced.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Certain changes in the composition of general freight traffic are at times apparent to close observers. The Industrial Commission claims to have noted two general changes: first, that there is a tendency toward a great increase in low grade traffic, and second, that high grade traffic is disproportionately greater in times of industrial prosperity.[1]

The commission alleges that the first statement is proved by statistics, quoted from the McCain report on railway charges, which show that 52.4 per cent of the westward bound tonnage in the Trunk Line territory which passed beyond the western Trunk Line termini was in the fifth and sixth classes in 1892, while prior to the year 1887 there was no class lower than the fourth, and that there has been a progressive augmentation of the proportion of freight assigned to the lower classes. Properly understood, this table does not imply any greater proportionate increase in low than in high grade freight. It means simply that articles which formerly paid high rates have been transferred to lower classes. It was used to demonstrate this in the McCain report and would not be used for any other purpose by one conversant with railway-rate history. Because the development of American industry in the last decade has been so largely in the direction of the increase and concentration of manufactures, it would be natural to suppose that manufactured articles have taken a position of much greater importance in the total tonnage; and the assumption would be reasonable that greater prosperity must have rendered the wants of consumers increasingly complex. Yet, notwithstanding these considerations, there is evidence that the average ton-mile has remained fairly stable.[2] If it has not, there can be little doubt that whatever change has occurred has been in a

[1] Pp. 276, 277.

[2] Traffic conditions in the ten regions used for the classification of the statistics reported to the Interstate Commerce Commission undoubtedly differ very widely. In the fiscal year 1900 the range of average ton-mile earnings was from 5.46 mills in Group III to 11.52 mills in Group I, or 111 per cent, while the number of ton-miles representing total services varied from 3,989,211,310 in Group VII to 41,275,547,319 in Group II, or 935 per cent. Between 1890 and 1900 the ton-mileage of the whole country increased from 76,207,047,298 to 141,599,157,270, or 85.81 per cent, and the increase in the different groups was between 57.16 per

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

direction quite different from that supposed by the commission. The decrease in the proportion of traffic made up of products of agriculture and the increase in the movement of manufactured articles clearly support this view. The notable increase in the movement of the products of mines may be considered evidence to the contrary, but a little analysis of the data throws doubt upon this conclusion.[1]

In its second generalization the commission is more fortunate. Its conclusion is supported, so far as the year 1901 is concerned,

cent in Group I and 202.80 per cent in Group X. Yet the changes in the territorial distribution of tonnage were so nicely balanced with regard to average earnings that a return to the distribution of 1890, with the average earnings per ton-mile of 1900 remaining in force in each district, would have modified the average for the entire country of the later year by less than four one-hundredths of a mill. The following table, comparing data reported by the Interstate Commerce Commission and the Eleventh Census, fails to show any very significant change in the composition of the total railway tonnage. The increase in the last item may be assumed to be a result of a change in classification.

ITEM.	1900		1890	
	TONS CARRIED.	PER CENT OF TOTAL.	TONS CARRIED.	PER CENT OF TOTAL.
Products of Agriculture	121,940,996	12.73	86,536,657	13.51
Products of Animals	32,369,674	3.38	26,428,028	4.13
Products of Mines	477,783,484	49.88	271,545,700	42.40
Products of Forests	99,756,175	10.41	63,798,185	9.96
Manufactures	135,039,876	14.10	79,950,770	12.48
Merchandise	42,521,093	4.44	29,746,813	4.65
Miscellaneous, other commodities	48,452,307	5.06	82,446,395	12.87
Total	957,863,605	100.00	640,452,548	100.00

[1] The total mineral tonnage of American railways in the fiscal year 1900 was 477,783,484; but this figure contains a great deal of duplication, as it is the aggregate of the reports of the several railways, and much of it is made up of shipments passing over two or more lines and thus reported more than once. The tonnage of this sort originally taken up from other sources than connecting railways was 271,602,072 tons, of which 171,322,650 tons originated east of the Mississippi and north of the Ohio and Potomac rivers, 33,056,168 tons east of the Mississippi and south of the Potomac and Ohio and 67,223,254 west of the Mississippi. But 43,692,936 tons of anthracite originated on the railways of the country in 1900, substantially all of it in the region first named. As this is 25.20 per cent of the mineral tonnage originating in this district, and as anthracite is not carried at extremely low rates but, on the contrary, at rates higher than the average for general traffic in the region indicated, it is clear that the average earnings per ton

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by the very heavy proportion of the total traffic of the east and west lines which was westward bound. It is well known that eastward traffic consists largely of grain, other food products and raw materials, which move at the lowest rates, while the westward business is mainly in manufactured products that pay a good deal more per unit of weight.

Making no allowance for changes in the character of the unit, the evidence of the average earnings per ton per mile indicates a moderate advance in charges during the last two years. The change, however, does not even approximate twenty-five per cent and has not restored the level of a very few years ago.[1]

(3) Two points must be emphasized in order to portray to the popular comprehension in any adequate or accurate fashion the facts of railway rate discrimination. There must be (1) a very clear distinction between those discriminations which are right and proper and those which operate unjustly, and (2) an equally clear insistence upon the fact that rate cutting and unjust discrimination are not synonymous terms. Neither of these points receives any attention in the report, but on the contrary its tendency is to confuse the reader in regard to both of them. It is absolutely essential to the present industrial system that railways should discriminate, in fixing their charges, among the different services they perform. They could not

per mile on mineral tonnage cannot be very low in this district. It may be assumed that as between the several regions the rates on other mine products roughly vary as the general averages, and as forty-four per cent of the mineral tonnage, except anthracite, originated south of the Ohio and Potomac or west of the Mississippi, the average rate per ton per mile must have been materially influenced by the higher rates in those regions. Again, it is a fact of common observation that products of mines are not usually carried as far by rail as the general average of all tonnage; so that the high proportion of the total weight made by this class of freight does not indicate an equally high proportion of the total ton-mileage, with a corresponding influence upon the average ton-mile unit. These are very general conclusions, but nothing more is possible until more complete statistics are available.

[1] The following table (see next page) shows average receipts per ton of freight per mile in mills as given in the successive annual reports of the statistician to the Interstate Commerce Commission.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

charge at uniform rates per ton per mile, or per unit of weight regardless of distance, or on any other basis, without restricting traffic undesirably at one point or another. Only those discriminations are unjust which are arbitrarily made with reference to the individuals or localities or kinds of traffic affected,

REGION.		YEAR.						DECREASE FROM 1890 TO 1901.	
		1901	1900	1899	1898	1895	1890	Amount.	Per cent of 1890.
The United States.		7.50	7.29	7.24	7.53	8.39	9.41	1.91	20.30
Group I.	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island	11.51	11.52	11.23	11.76	12.23	13.73	2.22	16.17
Group II.	New Jersey, Delaware, District of Columbia, New York (east of Buffalo), Pennsylvania (east of Pittsburg), West Virginia (north of Parkersburg) .	6.46	6.13	5.82	6.17	6.98	8.28	1.82	21.98
Group III.	Ohio, Indiana, Michigan (southern peninsula), New York (west of Buffalo), Pennsylvania (west of Pittsburg) . . .	5.68	5.46	5.29	5.78	6.42	6.95	1.27	18.27
Group IV.	Virginia, North Carolina, South Carolina, West Virginia (south of Parkersburg)	6.41	5.95	5.94	5.92	6.70	8.44	2.03	24.05
Group V.	Kentucky, Tennessee, Georgia, *Florida, Alabama, Mississippi*, Louisiana (east of Mississippi River)	8.02	8.08	8.07	8.35	8.95	10.61	2.59	24.41
Group VI.	Illinois, Iowa, Wisconsin, Minnesota, Missouri (north of St. Louis), South Dakota (east of Missouri river), North Dakota (east of Missouri river), Michigan (northern peninsula) . .	7.89	8.06	8.21	8.26	9.61	9.61	1.72	17.90
Group VII.	Montana, Wyoming, Nebraska, Colorado (north of Denver), South Dakota (west of Missouri River), North Dakota (west of Missouri River) . .	10.43	10.64	11.01	11.57	10.98	13.60	3.17	23.31
Group VIII.	Kansas, Oklahoma, Indian Territory, Colorado (south of Denver), Texas (Panhandle), New Mexico (north of Santa Fe) .	9.71	9.64	9.68	9.61	11.61	11.52	1.81	15.71
Group IX.	Texas (except Panhandle), Louisiana (west of Mississippi River), New Mexico (east of El Paso and south of Santa Fe)	10.18	9.38	10.65	10.42	12.53	13.03	2.85	21.87
Group X.	Washington, Idaho, California, Oregon, Nevada, New Mexico (west of El Paso)	10.55	10.67	11.36	11.46	12.61	16.51	5.96	36.10

The foregoing shows that as recently as 1897 the average ton-mileage earnings was higher, not only for the country at large but for every one of the ten groups, than in 1901. The average for the whole country and for every group was also higher in every year prior to 1897. The averages of seven groups were lower in 1901 than in 1898; seven lower than in 1899; five than in 1900; while the average for the whole country was lower than in any year previous to 1899.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and in more or less wanton disregard of the real underlying conditions which determine the social value of the different transportation services concerned. Neither any railway manager nor any student of transportation economics nor any lawmaker or jurist has ever described in any but the most general and indefinite terms the criteria by which discriminations are to be tested in the effort to determine whether they are just. The Industrial Commission had a magnificent opportunity to investigate in this direction, and its efforts, if well directed, might have contributed much to the solution of the most difficult question connected with railway development; but it utterly neglected these possibilities. A federal law has long required the publication of all interstate rates and has made deviations from the legally promulgated schedules a serious offense. Rate cutting of this kind is grossly improper, because it strikes at a fundamental requisite of regulation, namely, the publicity of rates; but it does not necessarily involve unjust discrimination. It may be that the cut rates are made available to all shippers — a not at all uncommon occurrence, of which there were frequent instances in the year 1901 — and that a really unjust discrimination exists in the public tariff which is violated. Rates which affect unfairly the interests of particular purchasers of transportation can never be in state of equilibrium, although they may be announced in schedules that in form and manner of promulgation completely satisfy every statutory requirement. This condition may occur through the errors of judgment or the malicious purpose of railway officers, or even in obedience to unwise decrees of public regulative agencies; but whatever its cause, there must always coexist a tendency to charge really reasonable rates. Such deviations from the schedules may be made illegal and punishable by the most severe penalties, but they do not constitute unjust discriminations.[1] There is good ground for the belief that a not insignificant proportion of recent rate cutting has resulted from the natural tendency of rates toward the adjustment that would satisfy the current commercial

[1] Although it may be convenient, for judicial purposes, conclusively to presume that they do.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

conditions. The report tends to direct the attention of its readers to the evils of rate cutting and of allowing favored shippers privileges that are not generally enjoyed, rather than to the much more fundamental and difficult questions that arise from maladjustments of the rates announced in the published schedules. This is unfortunate; for while the substantial solution of the obvious evils of rate cutting can be attained whenever the public chooses to take a step which both railway history and sound judgment point to as the one means to that end, the difficulties sure to be encountered in an effort to secure a satisfactory and generally fair adjustment of the charges for different services are much more subtle and the means of surmounting them far more elusive.

(4) No facts in the history of railway development are more important than those which express the tendency toward the concentration of the control of the entire system of railway facilities serving a particular country or extensive portions of those facilities. This is fully recognized in the report, and the discussion of the subject fills some twenty-five pages,[1] exclusive of those devoted to pooling, which is really but a phase of concentration. No other portion of the report, however, is more likely to lead the reader astray.

The reader is told that recent consolidations have been accomplished by "first, actual purchase or ownership in fee; secondly, acquisition by lease; thirdly, stockholding control; and fourthly, minority representation in directorates."

This not only is a far from satisfactory classification, but, what is worse, it is incorrectly applied. Thus there is such a thing as consolidation through the actual purchase of the property and franchises of one or more corporations by another, although it is scarcely permissible to apply the term "in fee" to rolling stock and equipment. The report correctly states that throughout all American railway history there has been a strong tendency towards consolidation by this means, and properly cites as illustrations the Chicago, Milwaukee and St. Paul,

[1] Pp. 304–329.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Atchison, Topeka and Santa Fe and the Erie systems.[1] But in seeking to apply this classification to the facts of recent railway history the author of the report selects as illustrations the operations by which the Great Northern and Northern Pacific secured control of the Burlington, the New York Central of the Lake Shore and Michigan Southern, the Reading of the Central of New Jersey, and the Southern of the Mobile and Ohio.[2] Now in every one of these instances control was secured by the purchase of shares and is exercised through the ownership of stock and in no other way. In none of them has there been any purchase of the real estate of the controlled corporation "in fee" or of any of its other property. Every one of these instances belongs in the third class described in the report, *viz.*, that of "stockholding control."

In the same class properly belongs the union of the West Shore with the New York Central, which is used to illustrate consolidation by lease. It is true that in this case a lease for 475 years from January 1, 1886, gives to the latter company the right directly to operate the property of the former; but this was effected only as a detail of an arrangement by which the lessee became the possessor of every share of the capital stock of the lessor and the guarantor of its entire bonded indebtedness. Neither is the Great Northern an example of consolidation by lease. It is not in any true sense a consolidated property at all; for the Great Northern Railway Company was organized expressly to become the lessee of the property of the St. Paul, Minneapolis and Manitoba, which still constitutes 70.41 per cent of its entire system. Since October, 1898, the Great Northern has acquired over ninety-seven per cent of the capital stock of the original company, so that there is now legal "stockholding control." Those who are familiar with railway development do not need to be told that this practice of supplementing "shareholding control" by leaseholds is very common. Probably most of the mileage now operated under leases is also controlled by the ownership of shares in the

[1] P. 311. Nearly every railway in the country might have been cited as in some degree expressing this tendency. [2] P. 310.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

corporations which actually hold title to the property. Such leases are merely a means of obtaining the right of direct operation, which does not accrue as an incident of share ownership, no matter how extensive. This is obviously very different from the expansion of a property through leases negotiated with really independent corporations. Such expansion is not uncommon, and the report cites properly two instances, those of the lease of the Boston and Albany to the New York Central, and the Fitchburg to the Boston and Maine.[1]

A more serviceable classification of the different ways in which railway properties have been consolidated would be the following:

I. The expansion of an existing corporation.
   A. By the purchase of the property and franchises of one or more companies.
   B. By the purchase of a dominating interest in one or more companies, such interest being either
      a. All or nearly all of the shares;
      b. A bare majority;
      c. In a few cases and under special conditions a strong minority.
   C. By leasing one or more properties belonging to other companies.
II. The especial creation of a new corporation.
   A. To purchase the property and franchises of two or more existing corporations.
   B. To purchase dominating interests in such corporations.
   C. To lease the properties of such corporations.
III. The acquisition of the control of legally separate corporations by a single individual, firm or compact group of persons.

Properties cannot properly be said to have been consolidated merely because one of them has obtained minority representation in the board of directors of the other. The New York Central and the Pennsylvania now have such representation in the directorate of the Northern Pacific, and the Missouri Pacific board contains a member who is also a director in the Baltimore and Ohio, which is commonly regarded as a part of the

[1] P. 311.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

expanded Pennsylvania system, as well as in the Illinois Central, which is vigorously independent. In fact, minority representation of this sort is one of the commonest facts in railway organization. The report also speaks frequently of "investment holdings"[1] of railways in the securities of other railways. In the proper sense of the term there is no such thing. Railways purchase shares or convertible bonds of other companies in order to control or materially to influence their management. They sometimes acquire for the same purposes bonds of companies that are or may become insolvent, but their bondholdings usually represent advances to new or weak lines which they regard as likely to prove profitable as "feeders."[2] In times of depression some railways may be compelled to dispose of such securities in order to pay interest, and some may do so rather than forego the payment, or reduce the rate, of dividends, or in order properly to maintain the property directly owned; but the acquisition of such securities is not for the purpose of deriving direct revenue in the form of interest or dividends.

[1] Pp. 206, 312.

[2] That there are no "investment holdings" of significance would be inferred from the fact that in the present period of unprecedented railway prosperity there has been but a relatively small increase in railway bondholdings, while the par value of the stock owned has been greatly increased. From June 30, 1897, to June 30, 1900, the par value of railway bonds owned by railway corporations other than those which issued them increased $68,652,821, or 17.04 per cent, and that of shares so held $407,261,352, or 38.31 per cent. Interstate Commerce Commission, Thirteenth Annual Report on the Statistics of Railways, p. 55.

Again, railway managers must be presumed to know as much concerning the likelihood of obtaining good returns from railway securities, even of corporations other than those which they direct, as the general public. Therefore it seems probable that if they made purchases on behalf of their own corporations for investment purposes, the holdings thus acquired, particularly in a time of exceptional prosperity in their industry, would show as high an average return as that obtained by other investors. Comparisons of incomes from bonds and shares on the basis of par values are not very satisfactory, but they may be somewhat instructive. On June 30, 1900, railway companies owned, in the aggregate, bonds of other railways having a par value of $472,831,377, and during the previous year they received as interest on such bonds $9,951,331, or 2.10 per cent. The outside public held $4,427,795,446 in bonds and received $242,998,285, or 5.49 per cent, as interest. Similarly the railway shares owned by railways produced dividends at the rate of but 1.43 per cent, while those held by others produced 2.71 per cent. *Ibid.*, pp. 55, 72.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The report attempts to draw a sharp distinction between recent consolidations and those which occurred in the earlier development of the American railway system. It declares that

> the consolidations of the last two years not only contrast strongly in magnitude with those of earlier years; they are at the same time different in principle. The purpose of the earlier combinations was in the main to secure business by the extension of lines and feeders to strategic points. . . . The object of these later consolidations is essentially different. . . . The new consolidations are intended expressly to obviate competition.[1]

Later in the report the idea in the mind of its author, obviously derived from contemplation of the conditions in France and other European countries in which there is a more or less effective division of territory among the different railway systems, is made more clear by the following statement:

> An obvious and logical result of the wholesale consolidations of the last two years may be to apportion the entire country between great groups of railroad interest, each of which shall entirely dominate the situation within its own area.[2]

Then follows an attempt to show that such territorial division has already been in a marked degree achieved.

Only a little consideration of the evidence is necessary to convince the student that there is no such distinction between early and recent consolidation as that argued in the report. It is not a new thing for parallel lines to be united, and among the latest consolidations there are many examples of the acquisition of connecting properties for the purpose of reaching new territory. Thus the New York Central and Hudson River acquired the New York and Harlem in 1873 and the West Shore in 1885, the Lake Shore and Michigan Southern acquired the New York, Chicago and St. Louis at about the same time, and the New York, New Haven and Hartford the New England in 1898. In each of these cases the lines consolidated were parallel to each other. The principal recent acquisitions, on the other hand, include the Long Island and Western New York and Pennsylvania, by the Pennsylvania Railroad; the Boston and

[1] Pp. 308–309. [2] P. 320.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Albany, by the New York Central; the Burlington, jointly by the Great Northern and Northern Pacific; the Kansas City, Fort Scott and Memphis, the Kansas City, Memphis and Birmingham and the Chicago and Eastern Illinois, by the St. Louis and San Francisco; the Choctaw, Oklahoma and Gulf, by the Rock Island; the Plant system and Louisville and Nashville, by the Atlantic Coast line; and the Chicago, Indianapolis and Louisville, jointly by the Southern and the Louisville and Nashville.[1] In none of these instances is the acquired property parallel to that which has obtained control, but in each of them the purpose of the consolidation was, and its effect has been, to extend the sphere of influence of the purchasing or leasing corporation and to give it access to new territory or additional "strategic points."

Nor is it correct to say that, while the earlier consolidations "conduced markedly to economy of operation . . . there is no longer any object in economy of operation to be sought."[2] The economies to be effected by the necessarily broader operations of the present day are not precisely like those of earlier days, but they are not less real. Among them may be mentioned the advantages of purchasing supplies, such as rails, cars, locomotives, *etc.*, in the largest possible quantities, and the opportunity to improve methods by detailed comparisons of the results obtained under different practices and conditions. In fact, the latest consolidations have had precisely the same causes as the earlier ones; they have resulted from the desire of individuals to extend their industrial power and to augment their pecuniary gains through the profitable expansion in any practicable direction of the corporations which they control. They have been justified by possibilities of producing the services required by the public at lower cost and of substituting order and stability for disorder and demoralization. They have induced additional capital to enter the railway field just as did similar operations in the past, and they have caused investors to be satisfied with greater security and lower interest.

[1] The last four consolidations occurred after the report was printed. Since the foregoing was written the Louisville and Nashville has passed into the control of the Atlantic Coast Line, a connecting system..

[2] P. 309.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The alleged territorial grouping may be somewhat faintly foreshadowed, but it requires a great deal of imagination to supply the details of the picture as they appear in the report. To say that the New England roads are already consolidated on a territorial basis, is to cite the nearest approach to such a condition in the United States. The New York, New Haven and Hartford is essentially a terminal road, but on through business which extends westward of the Hudson River it has to meet the competition, in its own territory, of the Boston and Maine, the Boston and Albany, the Central Vermont and the Central New England, while at least two of these companies are able to compete with it for valuable local business. Traffic conditions, however, now render it impossible that there should be any effective grouping of the carriers which reach the Atlantic seaboard unless it can be rendered comprehensive enough to include all of those which terminate anywhere on the eastern coast of this continent between Halifax and Norfolk. It is not at all certain that, with the growth of foreign trade — particularly the increase in exports of manufactured articles — and the development of the carriers which serve the southern Atlantic and Gulf ports, it may not be necessary soon to extend this statement so as to include all ports from Halifax to Galveston. In so-called Trunk Line territory, in which the report says "division of the field seems to have been recently progressing," there are seven lines north of the Potomac River whose owned and operated tracks extend from its eastern to its western boundaries. These are in five systems, as the New York Central has controlled the West Shore for sixteen years, and the Pennsylvania has for about a year dominated the Baltimore and Ohio, although without possessing a majority of its shares or in its directorate. The Erie, the Delaware, Lackawanna and Western, and the Lehigh Valley properties are separately managed, although with the Reading and Central of New Jersey they are parties to a "community of interest" that has greatly relieved the situation in regard to anthracite mining. Even in this field the Delaware and Hudson, the New York, Ontario and Western, the Delaware, Susquehanna and Schuylkill and the Pennsylvania

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

operate independently of the other carriers and of one another. The two southern Trunk Lines are dominated by the Pennsylvania, although in the Chesapeake and Ohio the New York Central is a large shareholder.[1] They are far more important as carriers of bituminous coal than as competitors for Trunk Line traffic. The report is also in error in assuming that the "granger" roads can be grouped apart from the transcontinental lines. The Great Northern, the Northern Pacific, the Union Pacific and the Atchison, all transcontinental roads, are heavy grain carriers and strong competitors of the St. Paul, the Rock Island and the Northwestern for cereal traffic; while the first of the companies in the second group may at almost any time be built to the Pacific coast, the second is already equipped for transcontinental business and the third is strongly allied in traffic matters with the Union Pacific.[2] In order to perceive the "strong evidence" of a tendency toward general southwestern consolidation spoken of in the report,[3] one's eyes would have to be closed to the operations in that region of the Southern Pacific, the St. Louis and San Francisco, the Atchison and the Rock Island systems, none of which is in any degree controlled by the Missouri Pacific or other "Gould" property.

(5) Railway competition is discussed in the report as a topic subordinate to the general subject of discrimination in charges. This inversion is unfortunate not only because it may create an impression that there is no competition except that among routes which can perform identical services — a type of competition that all qualified students have recognized as the principal cause of unjust discrimination — but also because it fails to convey an adequate idea of the important place which

[1] The outstanding share capital of the Chesapeake and Ohio is a little more than $60,000,000. Of this the Pennsylvania owned $10,130,000 on December 31, 1901, and the New York Central $5,000,000 on June 30, 1902. See the annual reports of the companies for the dates named and Poor's Manual of Railways for 1901, pp. 125–126. No such exchange of shares as that alleged, on pages 320 and 321, to have taken place was ever made.

[2] The St. Paul has, since the above was written, entered into an agreement with the Union Pacific which gives it access to the Pacific coast.

[3] P. 321.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

competition occupies in the field of railway economics. This portion of the report makes an excellent beginning by calling attention to the fact that the popular idea that there is no railway competition except where there are parallel routes is unwarranted. It declares that there are four distinguishable types of competition in railway transportation, *viz.*:

> direct competition of parallel lines; second, indirect competition of widely separated lines; third, the competition between cities; and finally, the competition between markets, which may be within the same country or in distant parts of the world.[1]

While the foregoing, with the discussion by which it is followed, will probably rouse many readers from the mischievous belief that there is no escape from railway monopoly except through the wasteful duplication of facilities,[2] no one will be led by anything in the report to a perception of the real nature or the imperative force of that type of competition which controls the charges for nearly all railway services.

The distinctions which the report attempts to enforce are not real and are therefore misleading. The first two forms of competition suggested are identical. No two railways are really parallel, and in the cases in which that term is applied with the nearest approach to accuracy there are always many towns reached by one of the so-called parallel lines to which the other does not have access. The type of competition which the report attempts to divide between these two classes is simply that of routes which offer to perform identical services. Nearly every route is more or less circuitous, and when this type of competition exists the competitors are sure to have routes of varying length. Certainly the degree of curvature cannot be made the basis of a very fruitful classification. The excess mileage of one route may be more than offset by advantages of trade, roadbed and equipment, by volume of

[1] P. 355. The author of the report gives a fundamentally different classification on page 414.

[2] Especially as it is followed by the excellent statement that ruinous rate wars, followed either by pooling or by consolidation, constitute the principal result of the direct competition of parallel lines. — P. 355.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

traffic, by freedom from unwise legislative restrictions or by other peculiarly favorable conditions. When the competition of circuitous routes is that of lines which, because the business competed for comes to them as extra traffic and because they profit by even the smallest additional contributions to capital expenses, can afford to take it at rates that produce barely more than the cost of handling, it is easily condemned by the superficial; but the careful student is more than likely to find that, within the limits suggested, it is natural and useful.

Neither is there any genuine distinction between what the report calls the competition "between cities" and that "between markets" nor, even if these terms were accurate, would it be proper to designate either as a type of railway competition. Cities and markets are not railways, and they might compete with infinite intensity without in any degree affecting railway charges by their rivalries. True competition among cities or markets would have to be conducted at their own expense, and railways might easily view it with complete indifference. What is really intended to be suggested by these terms is doubtless the competition among producers, in which all those who contribute in any way to production, including carriers of all kinds, must participate. This type of competition, with regard at least to the great staple products, is practically world wide; for it is almost, if not wholly, true that the world has been drawn together by railways, steamships, telegraphs and telephones until it constitutes but a single market. Such competition pervades the entire field of transportation and closely restricts the charge for nearly every service. Each transportation service[1] is a complementary commodity, which has neither utility nor value until joined to some other commodity. In the modern productive system many commodities are grown or manufactured far from the points at which they are to be consumed. They acquire first of all their utilities of form, but the productive process is not complete until a utility of place has been added. But for each

[1] Except in the case of passenger travel for other than commercial purposes, in which case the service is a direct commodity or a consumers' good.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

particular volume of supply of any commodity in any market there is a definite price which, so long as the conditions of demand remain constant, will not be varied. Usually this price is a competitive one; but whether it is or is not, it must furnish the compensation for the producers both of form and of place utilities. Railway carriers, however, are not on an even footing with the local producers whose wares they transport in the division of the gross sums for which the commodities sell when the necessary utilities of place have been added. Most articles of general consumption can be grown or manufactured, with greater or less convenience, at the points of consumption and in many other regions, some of them widely separated and each involving the utilization of different transportation routes. The producers of place utilities in each of the supplying regions possess more or less mobility, and those of a particular region will withdraw their labor and capital or transfer them to another field, served by other carriers, if both are not properly compensated. Their products also have definite and ascertainable costs of production. There is no definite cost of production assignable to any specific railway service. Such services are invariably at joint cost. Therefore, when the commodities in the production of which a particular railway service is instrumental are sharply competitive, any sacrifices necessary to maintain their position in the market are certain to fall largely upon the carrier.[1] This is the real force which regulates railway charges and keeps the return to railway capital at the minimum rate which will induce a sufficient supply of funds for renewals and new construction. It is not competition among cities or markets but is in the strictest sense competition among railways and other carriers.[2]

Instead of four, there are really but two distinct forms of railway competition. The first is that of alternative routes,

[1] H. T. Newcomb, "Observations concerning the Theory of Railway Charges," *Yale Review*, November, 1900.

[2] The consideration of this form of competition on page 414 of the report, although introduced to support an erroneous conclusion concerning capitalization, is much more satisfactory.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the second that of railways, in combination with the producers of utilities of form, as producers of marketable commodities. The first form of competition operates directly upon the rates at a few places—*viz.*, those that are served by two or more carriers—and tends to reduce the charges at these places below the points at which they would bear the most desirable relation to the general level of rates. By causing wasteful methods and extravagant expenditures this form of competition has the indirect effect of keeping the general level of rates higher than would otherwise be necessary. The second form operates directly upon all rates, except those applied to articles of which the supply can be drawn from but a very restricted region, and tends to reduce them to the level at which aggregate receipts will barely pay operating expenses, including maintenance, and the lowest return upon capital which will induce an adequate amount of the latter to be devoted to the railway industry. The first form of competition is the cause of unjust discrimination; the second fixes the standards by which the fact of reasonableness is to be determined.

The principal weakness in the discussion in the report is that it fails to keep in view even the crude classification of competition which it suggests, and constantly uses expressions that seem to support the contention that the competition of parallel routes has really reduced the general average of charges. If the author of the report had not lost sight of the more complex type of railway competition, he could not so frequently have repeated the fallacy that "local freight rates are the result of a monopoly,"[1] or urged with such apparent confidence the erroneous proposition that railway consolidation tends to retard the fall in the general level of rates and even "opens the way to a higher range of charges."[2]

(6) There is a widespread popular belief that the capitalization of railway property has been improperly and maliciously augmented for the purpose of extorting from the public exorbitant charges and in order to deceive legislators and railroad

[1] P. 323. See also p. 359.

[2] Pp. 322–323.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commissions. No other misconception concerning the railway industry has been so prolific a parent of prejudice or so ready a weapon in the hands of demagogues. The report lends its support to this belief. The pages which it devotes to capitalization [1] commence by confusing capital and capitalization, really two very different things, and abound in such terms as "fictitious additions," "flagrant methods," "bonus to bait purchasers" and "increase capital surreptitiously." It fails to take account of the fact that railway corporations own large blocks of railway shares and bonds, which by this very fact are part of the basis of the capital issues of the holding companies, and are thus, so far as purchasers of transportation are concerned, effectively cancelled. In consequence of this oversight the aggregate capitalization of American railways on June 30, 1900, is stated as $11,491,000,000, and the average per mile of line as $61,490, while the correct figures are less than these by 16.91 per cent, the difference being due to stocks and bonds, with an aggregate par value of $1,943,050,349, which were owned by railways.[2] This error naturally led to a misconception of the plain meaning of recent changes in the capitalization of the American railway system and to an implied adverse criticism based upon the idea that there has been an increase disproportionate to the growth in railway mileage.[3] Thus it is declared that "official statistics report the increase of capitalization for 1900 over the preceding year to amount to $1147 per mile of line," — a statement that is not supported by the figures, even if railway ownership of securities is ignored. The real result by this method is an apparent increase of $934 per mile of line; but if account is properly taken of the effective cancellation of securities by company ownership, the comparison shows an average decrease from June 30, 1899, to June 30, 1900, of $674 per mile. The tone of the report when it touches upon the supposed relation between capitalization and rates lends definite support to the

[1] Pp. 397–419.

[2] Interstate Commerce Commission, Thirteenth Annual Report on the Statistics of Railways, pp. 53, 55.

[3] P. 401.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

idea that high capitalization is seriously dangerous to the general public. Indeed it is roundly asserted, without argument or evidence, that "in the long run excessive capitalization tends to keep rates high; conservative capitalization tends to make rates low." [1]

The belief that increases in capitalization must increase rates, or at least prevent normal reductions, is based upon a singular refusal to accept the evidence of railway history or statistics. Thus in 1900 the region having the lowest average capitalization per mile of line of any of the ten groups used in the statistical reports of the Interstate Commerce Commission, *viz.*, $42,707, showed average earnings per ton per mile of 8.08 mills; while the region having the highest average capitalization, $112,255, showed average ton-mile earnings of but 6.13 mills. The average earnings per passenger per mile in the former region was 2.325 cents, and in the latter 1.789 cents.[2] In reality capitalization is in part a more or less honest expression of the estimates of promoters and reorganizers and, in at least an equal degree, a result of mere convenience. In reorganizations and consolidations it is necessary to exchange new securities for old, and the latter must therefore be given a common denominator in terms of the new. The natural result of this arithmetical process is the augmentation of the number of parts into which the property is theoretically divided. The earnings out of which interest and dividends must be paid are, on the other hand, determined by commercial conditions, a fact which is obviously unaffected even by the supposition that rates may for a time be arbitrarily and unwisely fixed. The securities of different grades and amounts in no way fix the aggregate to be divided among their owners, but merely establish the proportions in which whatever sums may accrue to their benefit shall be divided. A grave source of misunderstanding between the purchasers and the vendors of transportation would be removed if this were commonly understood,

[1] P. 414.

[2] Interstate Commerce Commission, Thirteenth Annual Report on the Statistics of Railways, pp. 53, 95.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and in further confusing the public mind the report tends to postpone the establishment of railway regulation on a basis of sound public sentiment and adequate comprehension of the essential conditions of transportation. Such jugglery with corporate securities as that recently announced in connection with the Chicago, Rock Island and Pacific is seriously detrimental, in that it is dangerous to investors and destroys that stability which is necessary to make corporate securities a safe and popular means of investing small savings; but it can never affect rates or earnings except in the most remote and circuitous manner. The public should be protected against such proceedings, but probably only by means of adequate provisions for publicity and by the development of a public sentiment, extending even to the American leaders of the *haute finance*, which would make such operations unprofitable.

It must be said, in conclusion, that this portion of the Industrial Commission's work is radically unsatisfactory and grievously disappointing. It displays a disheartening disregard of the obligation to scrutinize with unusual caution every statement of fact or opinion that is to carry to the public the implied authority that attaches to every official report of a federal investigation. It is untrustworthy alike in its statements of fact and in its generalizations, while it manifests but too clearly a disposition to construe every incident of railway practice or history as completely as possible in a manner adverse to the citizens and corporations engaged in that industry. These things will not be clear to the majority of readers of the report, and it cannot fail to mislead many who sincerely desire to comprehend the railway situation.

H. T. NEWCOMB.

WAYNE, PA.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

REFERENDUM AND INITIATIVE IN CITY GOVERNMENT.

THE theory of recent municipal reform in the United States is that of a "business corporation rather than an integral part of the state." Upon this theory, power and responsibility have been transferred to the mayor, on the ground, as stated by Mr. Seth Low, one of the earliest exponents of the theory, that "in the administration of large business enterprises some one man must be given the power of direction and the choice of his chief assistants." Perhaps its earlier advocates did not intend to carry their theory as far as it has gone; but, however this may be, the mayor in the larger cities has been made, under the influence of the theory, not only the chief executive, but also the chief legislative authority. The climax was reached in New York in the charter of 1897, wherein the initiative in matters of taxation, indebtedness, franchises and improvements was bestowed upon the mayor and the boards appointed by him, with a joint and absolute veto upon the common council, and a personal veto of the mayor equal to a five-sixths vote of the council. It is significant that in the revision of 1900 a reverse step was taken, and the excessive power of the mayor was slightly reduced. At present there is a lull in the progress of the theory throughout the country, caused, perhaps, by its admitted failure in many cases. As shown by the results, the theory neglects factors which demand recognition. What these are, should be, if possible, determined.

Political science and economic science are alike in that they seek a basis in psychology. If the city is exclusively a business corporation, it must call into play only the psychic factors which belong to business. If it is also a political corporation, it must call into play also the psychic factors which underlie politics. These personal factors operate through social organization, and to operate effectively the organization must be so

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

shaped as to furnish to each factor its own proper machinery of expression. An analysis based on this principle shows that there are in city government three distinct problems, corresponding to three distinct types of mind, namely, the technical, the business and the political problem; and that two distinct forms of organization are required for these problems, namely, the business and the political organization.

By far the greater part of the people living in a city, whether engaged in private pursuits or employed by the city government, are occupied in working up the material of physical nature for the satisfaction of human wants. They are engaged in manufacturing, transporting and delivering goods, or in fitting up the machinery, buildings and highways for such purposes. The work is planned by architects and engineers, whether mechanical, electrical or civil, who are more or less equipped in the technology of their peculiar callings, and in the sciences of mathematics, physics and chemistry. The work is executed by foremen, artisans and laborers, who have varied skill in handling the material to be worked up. Here is suggested the first problem of the city, — a technical problem, dealing with physical material.

The same considerations apply to that large army of people which includes the teachers who are supervising the children at home or in the schools and churches, the policemen and prison officials who are dealing with the anti-social classes, the charity workers and pauper overseers who are dealing with the sub-social classes. These workers are fitting social material for society just as the other workers are fitting physical material for society's use. As in the latter, so in the former case, the work is technical, requiring knowledge gained more or less from the sciences of psychology, penology and sociology, and skill gained from experience in the application of scientific principles. Whether these two classes of technical workers are the employees of the city or of private parties, is not at all a matter of concern, seeing that the psychic qualities required are the same in either case. Here the problem is a purely intellectual one, — the problem of knowledge and skill. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

higher this knowledge goes, as in the case of engineers, chemists, penologists, the more nearly it becomes science; and the larger the experience and the greater the aptitude of the individual in disciplining his mind and members under the guidance of science, the more nearly does he become an expert. Science and expertness are the goal of the intellectual factors, knowledge and skill.

But a high development of technical ability is not possible without a minute division of labor and a specialization of knowledge and skill in limited fields of work. This necessitates transfers of goods, the selling of one's own special products and the buying of the products of others for one's personal and industrial needs. Furthermore, this technical ability must also be specialized within a single industry, and a hierarchy of knowledge and skill must be organized on a large or a small scale according to the extent of the market and the character of the production. Here we have a new problem, that of buying and selling, and the organization of responsibility. Material must be bought and sold, wages and salaries must be paid, employees must be selected and fitted into the processes according to their equipment in knowledge and skill, and the highest productive energy must be evoked from each employee by the proper play upon his motives. Altogether the problem is one of economizing the technical abilities of individuals, that is, of increasing the productive power of each group with the least sacrifice of strength and the least concessions to other groups and to the individuals within the group. This is usually known as the problem of business or administration. It deals with individuals, and the intellectual qualities required for handling it are tact and intuition. These qualities are seen in the successful business manager, who generally has but little technical ability, knows but little of the sciences and the various branches of technology over which he presides, and has no skill in handling material, but who, nevertheless, is able to "deal with men," through the personal qualities of foresight, diplomacy, courtesy, persuasion, blandishment and firmness. His predominant intellectual qualities are not accuracy but shrewdness,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not knowledge but insight, not skill but strategy, not breadth but intuition. Here again we are not concerned with the question of public or private management. The same qualities are required in a business manager, whether he be employed by the city or by a private company, or whether he be "his own employer."

The intellectual qualities corresponding to a technical and to a business problem respectively having thus been established, what is the nature of a political problem?

Society is made up of individuals working each in his own field. Division of labor is the instrument for creating wealth. The product is not the work of one man, or of one set of men, but of society as a whole. All that the individual uses in his work and his pleasure — his tools, food, clothing, luxuries — is the joint product of all society, past and present. These things simply represent the services which his fellows everywhere are contributing to his life. Society is mutual service. But the motive which leads each individual to contribute his share to the joint product is mainly the share which he and those he loves can get in turn. Society is opportunity. Freedom is command over the services of others. But the larger opportunities may be monopolized, and the rewards for services may be unfairly distributed. Freedom of opportunity and increase of reward are the objects for which individuals are continually yearning. Opportunity and reward are the twofold aspect of the benefits which society renders. Yet, in acquiring these benefits the lone individual is helpless against the pressure of others. Consequently those with common interests are compelled to join together for the power which united effort secures. That which holds them together is their common beliefs and opinions regarding rights. Here the intellectual element merges with the ethical, the ethical element being founded on wishes and interests. Beliefs and opinions in social matters are concerned with the distribution of wealth and social opportunities. This is essentially a problem of social classes, and differences of opinion on this problem are based on differences in the wishes and interests of social classes.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Self-interest is elevated from gross selfishness into a moral enthusiasm, partly by identification with the interest of a social class and partly by the claim that the interest of this class is the interest of society as a whole. On this high plane self-interest is armed for the political arena, and its demands aspire to the dignity of a public policy. But public policy, in domestic affairs, is a matter of the distribution of social benefits, and there would be no political problem were there no social classes; for there would be no problem of the distribution of wealth and opportunity. The problem here is not one of knowledge and skill in handling material, nor of tact and intuition in handling individuals, but of beliefs and opinions concerning the just and expedient disposition of social advantages. In solving this problem the conduct of the individual is modified, not through argument but through change of heart, not through proof but through conversion, not through logic but through ethics, not through enlargement of his knowledge or increase of his tact, but through change of his opinion; and in last instance, if all these fail, his conduct is modified by compulsion.

Here we have the mark which separates the political from the technical and business problems. In the technical field there is no power of compulsion. One must act according to unchangeable laws governing human nature and physical nature. "We conquer nature by obeying her," *i.e.*, by knowledge and skill, not by opinion and prejudice. In the business field we apparently come nearer to compulsion. Successful business enterprise depends partly upon control of the supply of the commodity produced, and successful business discipline depends on the power to appoint, promote and discharge subordinates. In each case the power is that of reward and punishment. But this power exists only so far as the laws of person and property permit and enforce it. Here the business problem depends upon the political decisions that regulate property. The business manager is allowed to use compulsion only to the extent that the people through their laws have chosen. His success within this area is based primarily on tact and persuasion.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The political problem of society appears exactly at this point. It is concerned with the extent to which compulsion shall be used by private persons, by sects or classes, in promoting their interests. History is full of the uprisings of sects and classes, of riots, wars and strikes, brought about by the struggle to share in a larger degree the rewards and opportunities which society vouchsafes. This struggle is not always violent. It may be constitutional; that is, the machinery of government may be so constructed and the suffrage so extended that each sect and class may increase its share of social services by simply getting control of the constituted authorities through recognized channels and without resorting to violence. The power of compulsion, belonging thus to the realm of practical politics, is the power to put one's own opinion or desire into effect regardless of the desires and opinions of others. This power cannot dominate in the technical field, where only knowledge and skill control, nor in the business field, where tact, intuition and enterprise hold sway, but is limited to the ethical field, where opinions, beliefs and prejudices contend for authority. Yet compulsion is not independent of technology and business. It depends upon them for execution. It cannot override them, but it can use their results. It deals only with the question, Who shall get the social advantages derived from them? The answer is given by one's desires, opinions, prejudices, with an ultimate appeal to force. It is for this reason that the political problem takes precedence over all other social problems in the hearts of the people. Men are first of all creatures of desire. Knowledge, skill, tact, are useful only as they satisfy the desires. Then when desire is hallowed by ethics, and what one wishes is what one, along with others, has a right to have, this union of desire, justice and fraternity dominates and guides all one's powers and activities. Consequently, if the structure of government does not provide separately for the problem of compulsion, the voters will assuredly subordinate considerations of technical and business efficiency to the interests of their political preferences.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is a mistake to suppose that political considerations are mainly to be found in state and federal politics. It is often held that voters elect their alderman and mayor on the basis of their opinions concerning the tariff or the currency, or other federal policy. This may hold of a few highly educated and philosophical-minded persons and of business men with large national interests, but for the majority of the voters it is their class traditions, friendships, likings and dislikings, their clubs, saloons, social gatherings, neighborhood acquaintances, their habitual preferences and prejudices that determine first their local alliances and then their national alliances.

The most inveterate and deep-seated of these political preferences has been that based on religious belief. In the United States, where church and state are separated and where religious opinions are allowed no place in determining the laws, these opinions are nevertheless sometimes injected into the election of officials, who will throw the balance of advantage to the side of their religious *confrères*. But, on the whole, the separation of church and state removes religious opinion from politics. If there were a state or city church supported by taxes, then violent political contests would arise between Catholics and Protestants as to which should get the benefit of the taxes and the clerical appointments. All questions of business and technical efficiency would be subordinated to this political question of the distribution of social privileges among religious classes.

As the religious hold weakens, both through decay and through the separation of church and state, the majority turns to material pleasures. There then arises a determined insistence on the right of the voters to enjoy themselves in their own way, to spend their money as they choose. Freedom of consumption now takes precedence over all other desires in the hearts of the voters.

Again, with the growing density of population, with the increase in technical improvements, with the development of wide extremes between propertied and non-propertied classes, new political prejudices spring up. The contests between

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

capital and labor begin, and the labor unions, with their emphasis on the class-consciousness of the working classes, soon show themselves in resistance to the business and property interests which have hitherto controlled the cities, and which are also the overt antagonists of the unions in private dealings. Important questions affecting the diffusion of property among the different classes in the city now begin to emerge. Such is the question of municipal ownership of monopolies. Whether these monopolies shall be owned by the city or by private persons, what shall be the charges for services, whose real estate shall be benefited — these are political questions affecting social classes. The economical administration of the monopolies, the appointment and discharge of subordinates, are business and technical questions. So with the choice between the contract system of public work and the system of direct employment; which of these systems the city shall adopt is a political question of opposing class interests. On one side are contractors and their friends, politicians and spoilsmen; on another side are the taxpayers; and still another class is the wage earners. Wage earners want high wages and short hours; taxpayers want low taxes. Contractors and politicians play them against each other. Naturally enough these questions, which are really political in their nature, since they are class questions, are held by adherents of the business theory to belong solely to the business field, and to be determinable only by business considerations. But this claim is really that of a particular social class, accustomed to think in terms of competition, cost of production and profits, and the demand that these political questions shall be left to a business decision is a demand that the interests of but one of the classes concerned shall be considered. But the strictly business and technical questions are subordinate to the political questions at stake. Whichever side wins in the conflict over the latter, the conditions determining the former are much the same. They are concerned solely with the economic execution of the work upon the basis of the hours, wages and taxes previously settled by politics.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Other political questions are the relative taxation of personal property, real estate and land values; the maintenance of public schools in place of private schools; and, in the public schools, if maintained, the provision of free text-books, free meals, manual training, *etc.*

Perhaps the most obvious of political questions is that concerned with the distribution of offices and employments. The traditional aristocratic and feudal notion finds in public office a means of privilege and leisure and of protection of personal and class interests at the expense of society. Modern political parties, which have grown up on the soil of feudalism, have merely elevated the strife for office from the secret and devious ways of court favoritism to open contest before the people. The early notion of privilege and leisure is still the animating motive. Only as room is made for business and technical qualities inside the political organization of the city does a different view of office prevail. The struggle for office and public employment grows intense on account of unstable conditions in private employment. For this reason the high wages, short hours, leisurely work and sure pay of municipal employment are well fitted to enlist in opposing political parties the anxious crowds of competing laborers. The distribution of public employment becomes a dominant political question. Here the business theory is undoubtedly the correct one. When public office and public employment have come to be merely the execution and not the choice of a policy, the problem is one of dealing with individuals and not with social classes. It is a business problem and cannot be successfully solved by those who are interested mainly in the political problem.

We may sum up now the radical differences between the three problems of city government. The city is both a business corporation and a political corporation. Both business and politics are grounded upon technological problems, dealing with the raw material of nature in order to fit it for man's uses, or with the undeveloped material of society in order to educate it for society's uses. In these problems the mental qualities required are knowledge and skill.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The business problem deals with individuals, in order to economize and stimulate their energies. It is a problem of buying and selling, and the organization of responsibility. The mental qualities required for its solution are tact, intuition and enterprise.

The political problem deals with social classes; or, it consists in the dealing of social classes with each other. It is a problem of the distribution of the wealth and privileges, the rewards and opportunities, which are being created through the solution of technical and business problems. The mental factors are the class desires and class opinions concerning justice and expediency. The problem is one of choices, and is essentially ethical.

These problems are not, in the existing political organization, distinct and separate. They overlap. The same person is often called upon to meet more than one. But they are essentially different, and the mental qualities required in dealing with each are radically unlike, and are seldom found together in a marked degree in one person. Consequently, for proper solution, the problems should be distinctly separated. Individuals should find their field and line of promotion in the solution of but one of them. This is impossible if the city government is so framed that the different problems necessarily overlap; especially if the political problem must be solved by the very same person whose field is the technical or business problem. In American cities there are two notable sources of this compulsory overlapping. One is the state legislature; the other is the mayor.

The American state gives to the city the privilege of electing its own officials, but gives to the state legislature the power of enacting laws which these officials are to enforce. It follows that when these social and class questions of beliefs, enjoyments and incomes pertaining to cities are settled by the state legislature, the only means which the voters have of enforcing their predominant desires is to elect officials, not on the question of their business ability or integrity, but on the question of enforcement or non-enforcement of state law. That is to say, not a man of business, but a man of politics, is necessarily their choice.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In order, therefore, that the American city may acquire technical and business efficiency it must have, first of all, legislative home rule. When the state legislature continues to enact laws for the city, it is compelled sooner or later to appoint and remove the city's officials. The tendency in this direction has shown itself in a state or "metropolitan" police system for Boston, St. Louis and other cities. To what extent the city should have home rule, in order to offset this centralizing tendency, is a matter of expediency; it should probably include local option on liquor excise questions, and on all financial and business questions of strictly local concern, like those mentioned above.

Here, however, we are met by the business or economic theory of the city: the city is only a business corporation organized to collect and expend the taxes, and it should therefore be organized like a private corporation, with responsibility centered in a general manager, that is, in the mayor.

If the city were really a business corporation, with the one purpose of saving money for its stockholders, this theory might result in the election of a capable business manager for its chief. But it is a political corporation, with the power of coercion; and since the political interests of the voters are as various and antagonistic as their passions and opinions, the mayor is elected, not for his business capacity, but for his political and social preferences.

The business theory is not even true to its business analogy. If the mayor is to be the executive head of the city, he will correspond, in the comparison with a private corporation, not to the president, but to the general manager or the superintendent, or to the cashier of a bank. The president of a corporation, as such, is merely a presiding officer of the board of directors. He has one vote, like every other director. He has no veto and no legislative discretion. The general manager, on the other hand, is the executive head, and he has no voice in the board. He merely executes the policy which the board and the president determine. The president, indeed, controls the manager, but he does so only as the intermediary between the board and the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

manager. The business theory, if true to itself, would deprive the mayor of veto power and would make him a responsible executive without political discretion.

Seeing, then, that the city is both a business and a political corporation, the mayor, if he is to be the head of the business side, should be deprived of all political discretion. He should have no veto whatever, no initiative, no power over franchises, taxes, improvements or excise, but should merely execute the wish of the voters; and this wish should have an entirely separate avenue for expression. In European cities this avenue is furnished by the common council, and the council has discretion in all matters, including the appointment and removal of subordinates. It is both the political and the business head of the city. But the council system has broken down in the United States. The reason usually given is the alleged injection of "politics" into the councils and boards of aldermen. But politics is always predominant in a municipal government. This predominance, however, is not a source of business confusion when the suffrage is limited to a single class, as is the case in a private corporation, or in the mediæval guild, or in the municipal governments of a country like Germany. But with the extension of the suffrage to conflicting classes it follows that conflicting policies are injected into the directorate, which otherwise would give its whole attention to the mere execution of its single policy. This is why municipal governments in France are less efficient than those in Germany, and why the extension of the suffrage in England is transforming the municipal council from a business management into a debating society. It is not that political considerations are subordinate when the suffrage is limited, and paramount when the suffrage is extended; for political questions always precede business questions so long as there are social classes, whether suffrage is limited to one class or extended to all. The difference between the two conditions is that in one case there is but one policy, that of the represented class, and the only problem for solution is the method of executing that policy, while in the other case there are divergent policies of different classes, and the problem of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

execution must be held in abeyance pending the solution of the problem of politics. But while suffrage is universal this problem of politics can never be solved; or, rather, the apparent settlement of one political issue simply makes room for another, and this will continue as long as society is composed of divergent classes and interests.

It is perhaps this practical failure of the council under universal suffrage, more than the abstract principles of the "business theory," that has driven American cities to shift power to the mayor. If, then, the council cannot be trusted, and the mayor is to be deprived of political discretion, the only resort is the direct popular vote. This would be the referendum and the initiative on questions of policy. Without entering into the plan of the initiative and the referendum, or the necessary constitutional safeguards, it is enough here merely to indicate what are the subjects which would properly be dealt with by this method. These would include the tax rates and the classification of property for purposes of taxation; compensation for franchises; charges, fees and licenses for public services; liquor and saloon regulation; municipal ownership and indebtedness; rates of wages and hours of employment; the choice between the contract system and direct employment; the location of public improvements and the distribution of assessments. Here is a wide field for discretion and political opinion — a field now occupied by the state legislature and the mayor, with participation in various degrees by the decadent municipal council.

The practical operation of the referendum on a few of these subjects can already be seen in many places. The towns and cities of Massachusetts have for several years been permitted to vote upon the question of "license or no license" at a popular referendum. Partly as a consequence, the cities have been able repeatedly to elect "non-partisan" or "independent" or "citizens'" candidates for mayor,— an achievement which few other cities can boast of. It has even occurred that cities which have voted for licensing the saloon have at the same election given majorities for anti-saloon mayors. The simple

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

device of the referendum subtracts the political preference of the voters from their choice of mayor, and by separating the political from the business problem of the city enables them, in electing the business head, to attend solely to the business qualifications of the candidates. The two issues are clarified and each is settled on its own merits. As an isolated proposition, voters do not wish corrupt and ineffectual government, but as a subordinate proposition, they prefer such a government to the restriction of those enjoyments and liberties which lie close to their habits of life. Furthermore, with honest and efficient administration the political problems of the city can be debated and decided on their merits. At present the honesty or dishonesty of the officials who are to execute the voters' will enters largely into the debate on these problems, and the solution in each case is determined less by the real wishes of the people than by their distrust of the administration to which the execution of their decision must be confided.

We reach, then, this conclusion: If with a system of universal suffrage we are to have business-like municipal administration, we must recognize that the city is not primarily a business corporation; that it possesses the power of coercing those who do not willingly acquiesce in its policy; that if the city charter is so framed that to the business administration is given discretion in the control of this power of coercion, the voters will strive to use the administration, first of all, to control this discretion in their own diverse interests, and but secondarily to secure efficiency and honesty. But if the business head and the state legislature are deprived of political discretion through direct vote of the municipal constituency on questions of policy, then the charter will follow scientifically the social psychology of the voters, and the city government will be, as it should be, efficient on the business side and popular on the political side. The mayor's only problem will be the selection, appointment, promotion and discharge of the technical experts and workers, who by their knowledge and skill execute the will of the voters. His own election will turn, not on his beliefs, his habits, his pleasures, his prejudices and opinions, but on his honesty,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

efficiency and tact in organizing the staff of technical workers and in dealing with the contractors and merchants from whom labor and material are to be purchased. The voters themselves will decide, independently of the mayor and his appointees, what they wish to have done or not done, how much it shall cost, how the funds shall be raised, who shall bear the expenses, to what extent their beliefs, enjoyments and habits of life shall be regulated. Thus the three problems of the city government — the technical, the business and the political problems — will each be settled in its own field on its own intrinsic merits, and the minds of the voters will be freed from that maze of conflicting problems which bewilders them in the solution of each.

The argument is frequently made by those who, notwithstanding the admitted disease and inefficiency of city government, yet favor the extension of municipal ownership and operation of public enterprises, that an increase of municipal responsibility will necessarily call forth improved business administration through "civil service reform." This reform will come because the voters' attention will then be forced upon the administration on account of its increased importance. In justification of this view, appeal is sometimes made to biology, where, it is urged, in the process of evolution the organ follows the function; the animal first does a certain act over and over again, and in doing it the necessary muscles and organs are built up by which it may be better done.

Possibly these theories of heredity may be mistaken and may be displaced by others, but however that may be, the biological analogy is not safe ground for sociological conclusions. The evolution of government has been twofold: it has developed an increase of function in one direction and a decrease in another direction. Government has decreased its activity and interference in the control of personal beliefs and enjoyments and the regulation of personal earnings. It has separated church from state, and has repealed sumptuary laws. During the same time it has increased its control over the administrative and economic conditions which make up the framework of society. It has

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

displaced private police by public police, voluntary fire companies by a municipal department, private toll roads by free public highways, private water supply by municipal ownership, private autocracy in industry by factory laws, and so on. Thus it has gained control of the merely mechanical conditions of society but has let go the personal appetites, desires, beliefs and initiative of individuals. One movement has been as important as the other, but neither movement has been blind or aimless. Both have been brought about by the demand of the masses for more and more personal liberty. Freedom of belief, freedom in the pursuit of happiness, free enterprise — these have been the banners of armies and parties which have overthrown monarchs and church, have nullified sumptuary laws and abolished monopolies and privileges. From the standpoint of the people this demand for freedom is the first and paramount demand. It comes directly from their desires, their faiths, their passions. They are more eager to have government take its hands off their beliefs and enjoyments than to have it lay its hands on their business and industries. So long as government keeps its hands on the former, the attention of the people is largely absorbed in that direction. They care more to see the administration devoting its coercive power to the emancipation of their beliefs and desires than to see it economical, honest and efficient. Hence, no matter how much the business functions and the civil service of government are expanded, the voters under universal suffrage will not give perceptibly increased attention to them so long as suppressive and sumptuary activities are undiminished.

The conclusion from the foregoing is, that progress and development in the scope of municipal operations and in the efficiency of municipal civil service must necessarily be accompanied by a curtailment of sumptuary and restrictive legislation. The two movements have gone together in the past and must probably go together in the future. But if, as is undoubtedly true, restrictive legislation in the interests of morals cannot be altogether abandoned, and if, in the nature of the case, government must deal with the distribution of wealth and privilege,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

then new machinery must be devised by which these matters can be managed without interfering with the questions of business and administration. The initiative and referendum would furnish this machinery. They provide a means outside the administration for the discussion and settlement of questions of policy, questions of class interest, questions of the distribution of wealth and privilege, questions of control over morals, beliefs and enjoyments. They make it impossible for municipal officials to have political influence one way or the other. They separate the political from the business problem.

With the proviso, therefore, that some such separate channel be furnished through which the debate on political questions may flow, we may admit that an increase of municipal responsibility will bring increased attention to and improvement of the civil service — that increase of "function" will bring improvement of "organ." But without this proviso — without a separation of political questions from the questions of the civil service — there is little hope that the latter will be solved in a business-like manner.

In addition to the reasons already given for providing that questions of policy should be decided through the initiative and referendum rather than by the municipal council, there are other reasons based also on the nature of democratic government. In the United States the council is overshadowed by the mayor. It has not prestige or standing as against his influence. It does not speak with authority and does not influence the voters at election time. It is easily swerved by special interests — by private corporations, political organizations and trades unions, which hold the balance of power through their control of wealth or votes. On the other hand, at a popular vote under universal suffrage there are so many diverse interests and so many voters with scattered interests, that no special interest can hold the balance of power, much less secure a majority. For this reason a popular vote tends to moderation, and is neither conservative nor radical. Each issue is voted upon separately, and this breaks up the log-rolling combinations of divergent interests which, in voting for a candidate

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

who stands on a party platform, are compelled to vote for extreme policies, with which they have little or no concern, in order to obtain the policy in which their concerns are predominant. Furthermore, innovations require too much explanation, and those who are undecided and not influenced by log-rolling, are more inclined to reject and wait than to approve and repent. And, on the assumption that the popular vote is to be taken on political questions only, and that by political questions are meant those which affect the distribution of wealth and privilege among social classes, it follows that the widest discussion and participation in the decision should be accorded to every interest, party, faction and individual. This is possible in city governments, since the questions of policy, though all-important and basic, are not continuously up for solution. Administration is much the larger part of municipal government in point of time occupied, though not in point of popular passion excited. The political questions arise only on somewhat rare occasions, and a settlement once reached on any point guides the administration for years.

Again, the psychological influence upon the voters of a direct voice in their settlement is a prime argument for the initiative and referendum. These questions take precedence in their minds over all other questions, and to vote directly upon them is that form of personal compliment which prepares the voter to accept philosophically the decision of the majority, where that decision, if made by a council, would provoke resentment through the knowledge or suspicion of undue influence. The very fact that the settlement of a given political issue consists in overriding a minority by compulsion makes it necessary to devise a method that will pacify that minority. This can be done only when the minority is satisfied that it has had its just share in the decision, and that it always will have an opportunity to bring up the issue again in the same or other form if it seems worth while.

The psychological and sociological analysis above advanced furnishes a basis for an explanation of the power of the political organization and the political boss in American cities. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

boss is the avowed agent of a social class in the distribution of wealth and privileges. He secures for his adherents either favorable legislation or exemption from unfavorable legislation. His avowal is not always thus brutally expressed, but with his growing importance he tends to throw aside the subterfuge of "general welfare" and to speak boldly of his proper function. Especially is this so when the classes to which he appeals are those who are, or think they are, unprivileged classes. With them he frankly takes the attitude of Robin Hood, acknowledges that he is "in on the graft," but that he uses his position to get jobs for his constituents, to furnish medicines and doctors for their families, to pay their bills for groceries and rent, and to relieve them from the harsh enforcement of laws in whose enactment they have had no voice. And even with the business and propertied classes, whose especial boss is still obliged to put great stress on the "public welfare" contained in his program, it is the special services which he renders that give him his hold. In every case the political machine and the political platform which the boss constructs are cleverly designed to take in enough divergent interests to secure a majority of the votes. And, since the officials who care for the business side of the city government have discretion in the political field, which is his province, he necessarily strives to secure control of the business management. He is not himself a candidate for elective office, except in a few wards where a single class predominates, because he must appeal to a variety of classes, and consequently must seek his end by naming such candidates as are sufficiently indefinite in their beliefs to stand on his mosaic platform and sufficiently docile to do his bidding. The referendum and initiative are a specific for the social disease which gives him power. They deprive the business management of the political discretion through which privileges are distributed; they separate and individualize issues which are essentially distinct, and thus insure that no single platform or candidate can be set up broad enough to attract from divergent interests a plurality of all voters; and they remove the animus which springs from the sense of helplessness in controlling the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

distribution of privileges, and which therefore condones the irregularities of the boss in securing for his constituents whatever share he can.

A probable criticism may be met at this point. It naturally is objected that the distinctions here made between the technical, the business and the political qualities and functions cannot, in actual city government, be rigidly observed. Conceding that the distinctions may hold true in abstract psychology and metaphysical politics, yet the human mind, it will be said, does not operate in separate compartments, nor can government be so nicely split as to take all political discretion from business heads and technical subordinates.

In city government there are, it must be admitted, three departments — those, namely, of police, of education and of charity — where the technical and the business qualities required of subordinates merge into the qualities that pertain to political authority. These departments do not deal with physical material, where knowledge and skill suffice for the required end, but they deal with human beings who, in the execution of the law, may be actually coerced. The policeman must necessarily retain a large element of discretion in the enforcement of a law, since he determines first in his own mind whether or not a given person is violating it. He is partly judge and partly executive. But there is a qualification to be observed. In proportion as any department of government or of social life develops scientific principles based upon an understanding of the human nature to be controlled, and in proportion as the law conforms to these principles and the administrators of the law become versed in them, in that same proportion does the mere empirical discretion, which bunglingly drives by means of coercion, give way to scientific insight, which leads by persuasion. The science of pedagogy reduces the school teacher's personal discretion by revealing the uniformities in the operation of the minds of children; as a consequence persuasion displaces coercion, and we see illustrated the social counterpart of the maxim in physics, that we conquer nature by obeying her. The charity agent who learns through

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the science of sociology how to transform the beggar into the useful worker does this by reducing the penal and coercive features of his office and by enlarging its educational and persuasive features. Likewise the policeman, were he to become the scientific penologist instead of the empiricist, would be recognized as an educational rather than a repressive agent of the city. Some such outcome might reasonably be expected if a direct popular vote and local self-government on questions of morals and enjoyments should be instituted. If those whose morals are to be controlled have a direct voice in determining the kind and extent of control, and if they must exercise this voice by securing a majority of their local fellow-voters rather than by diverting the policeman, they will be more obedient to the law thus determined and so will endeavor to influence the discretion, not of the policeman, but of the voters. In this way, automatically, the police discretion will be shifted from the policeman to the voters, and the officer himself will have a wider field for his scientific and reformatory functions through the lessening of his coercive and discretionary functions. The referendum and initiative with home rule, therefore, when once adopted, would tend to develop more clearly, both in the individual psychology and in the city government, the very distinctions which furnish the ground for their adoption, namely, the separation of the political from the technical and business problems.

Another objection sometimes raised against the referendum and the initiative is their alleged reversal of the trend towards specialization. One writer asserts that "the referendum idea rests on the theory that all men are specialists in everything," and that "this is an extraordinary development, in view of the opposite trend of legislation towards relieving the individual of having to guard his own food, his own plumbing, his own milk supply," *etc.*

But the direct popular vote, as shown in the preceding pages, tends to increase rather than diminish specialization. It does this by separating clearly the several provinces of government in harmony with the corresponding mental aptitudes

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of individuals, especially at the most exasperating point of the present overlapping. This is the point where politics interferes with technical and business qualities. If the mayor and his subordinates shall be deprived of the greater part of their discretion, they will be left free for a degree of specialization that is impossible under present conditions. This specialization will be developed in the only field where, in a democracy, it is desirable, namely, that of technical and administrative problems. But in the field of politics, which is the field of choice and coercion, specialization means despotism. Here the specialist is the king, the tyrant or the boss. In a democracy there can be no specialization in dealing with questions of the distribution of wealth, privileges and enjoyments among social classes. The separation of political questions from technical and business questions is indeed the vital problem of democracy. This must be effected in such a way that the general will of the electors can be exercised without changing the administrative and technical agents who enforce it. These agents will then become experts, who in turn will have their part to play as expert advisers on the political questions. And this advice will be far more influential than it is at present, because, the givers having no discretion in executing the policy finally decided upon, the acceptance or rejection of their advice affects in no way their tenure of position. Their advice is listened to by all classes, since it does not carry the suspicion of being influenced in behalf of one class to the detriment of others. In this way the proper reciprocity between the several provinces of government is secured, and the political questions, which must always be decided with reference to technical and business questions, are raised to a more dispassionate level of discussion and decision.

JOHN R. COMMONS.

NEW YORK CITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RADICAL DEMOCRACY IN FRANCE.[1] I.

OF making many books about the French Revolution there is no end. The theme itself is one of which the interest is inexhaustible. In less than a century there have been seven forms of government in France, and each of these, roughly speaking, has had its own school of annalists. The archive material therefore has been accessible according to the temper of the powers existing at the time of the respective investigations; and innumerable monographs, viewing each its subject from the political standpoint of the writer, have cast their illuminating rays, from every conceivable angle, on the long succession of disputed topics. In these latest years the radical democrats have been in control, or at least largely so, and the whole of French history is in process of review according to the opportunity and purpose of the writers who sustain the Atlas globe of radical pretensions. Of all the favored official historiographers M. Aulard is quite the most famous. He holds a chair endowed by the Common Council of Paris, easily the most radical municipal assembly anywhere to be found; for him the radical officers of state have no reserves; his industry is prodigious; his pen has the bland persuasiveness of the ready writer; and his pages abound in the imposing masses of documentary reference now essential, or at least fashionable, among the historical school which arrogates the style of scientific.

This latest volume from M. Aulard's laboratory is a composite monograph. Its contents are in the main familiar to those who read the periodical which he edits. It was worth while to weave them into a whole, so that pattern, color and texture could all be seen in unity. In many respects the task could have been better performed. The style is desperately jejune, disjointed and dogmatic. It is perhaps even worse, for

[1] F. Aulard, Histoire Politique de la Révolution Française. Paris, 1901.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

it is highly technical. Of certain qualities which it is customary to say every French writer possesses there is a painful lack; imagination, wit and clarity are conspicuous by their absence. Worst of all, there is no proportion whatever, the space awarded to any given discussion being apparently determined by two considerations, the quantity of material collected thereon and the fullness with which the subject has been treated in other volumes already published. From both the literary and the scientific points of view, the book is distinctly "impressionist"; it is a succession of facts observed in the light of a vigorous temperament, recorded with the conviction that redundancy of minutiæ constitutes the grand style, the whole supported by references taken from eyewitnesses of the events and from contemporary news gatherers, all of whom occupied the historian's own radical standpoint. For M. Aulard as for all impressionists there are no absolute standards, and consequently there is no moralizing criticism; history having no ethical quality whatsoever, it must be a chronicle of what the investigator believes himself to have discerned by research, each fact, person or event having no other value in the final computation than that which is determined by space, time and physical influence.

Nevertheless the book is of the first importance to the student. We are not disposed to accept as final his account of certain periods, because the temperament of the writer — what ill-natured people call the animus — is too obvious where circumstances are not to his liking. For the years 1789–92 he exhibits himself as utterly unsympathetic with the moderate reformers; again for the Directory as a burgher republic he exhibits a scorn almost amusing; his attitude toward the Consulate can easily be imagined. But for the short career of what he styles the democratic republic he has an almost passionate admiration. For him the Minotaur has no terrors; the zest of threading the labyrinth is the sufficient reward of his enormous labors and his sedulous care. Nowhere, we believe, can such a wealth of material for that short cataclysm be found as he has collected and ordered in the pages of this

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

volume. An outsider — that is a non-radical, non-atheistic, non-socialistic, non-French student of the times — may fairly conclude that the most valuable material which can be collected regarding the Convention as a political device, has been collected by its greatest apologist, that the best exhibit of its effectiveness has been made by its most devoted admirer. The story of the Convention in function therefore is that portion of the volume to which we address ourselves at the moment.

When we speak of radical democracy we use the words only in that sense which is determined by the limitations of human action, and in its genesis radical democracy in France was actually monarchical. The professors of that faith, being royalists, were in 1791 very daring and very sanguine. They were not content with demanding universal male suffrage, but they clamored for a reference of every statute to the people. Some were content with a reference to the organized local authorities; others demanded the approval of all statutes by the popular vote of what they called "the whole French Empire." It is very enlightening to note the phrase "French Empire" as a democratic shibboleth. The occasion for this agitation was the conduct of the king in flying from Paris, the extreme democrats desiring the reference in order to assure both his deposition and his trial at the bar. Petitions were accordingly prepared demanding that the legislature should refer the question to the country in some form or other. But the representatives of the petitioners and the papers themselves were rudely dismissed by the legislature as being alike meddling and superfluous, since certainly the deposition and probably the punishment of Louis in some form might be regarded as a foregone conclusion, provided there was no interference from without.

But the fervor of the mob was not thus to be repressed; a multitude of ardent radicals flocked to the Altar of the Country on the Champ de Mars, there to give utterance to their irrepressible emotions and prepare a petition for which they declared ten million signatures could be secured. To such a demand their

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

place-proud representatives must give heed. There being no senate provided in the constitution, the nation at large would be a controlling second house. This remarkable scheme was hatched by an irregular gathering composed of demagogues from the ward of the Palais Royal and of informal representatives from the Jacobin Club, sitting in the rooms of the latter. Danton, Brissot and Camille Desmoulins all had a hand in framing the petition which was offered to the great meeting. Curiously enough the language at first blush appears monarchical; for while it demanded the abdication of Louis XVI, it called for replacing him "by all constitutional means" — and the constitution was monarchical! Simultaneously Robespierre was carefully explaining that he had nothing against either republic or monarchy as he understood them, though such vagueness as characterized both terms was exasperating. Madame Roland pictures him as biting his nails and asking with a sneer: "What is a republic anyhow?" However, there were some at the meeting who would not sign so colorless a paper; enough in fact to stir up a feeling which thwarted the whole movement. The substantive result was revolutionary, for the extreme followers of Hébert presented a substitute petition demanding the deposition of the king and his replacement by a new constituent power. There were many signatures of women among the six thousand painfully secured, for such valiant radicals as the wives of the proletariat could no longer be ignored. This was the first recognition of woman's political rights in France. Though even the Hébertists dared not as yet employ the word "republic," yet no one doubts that this was the idea conveyed in the circumlocution of a "new constituent power." But for the merest accident and strangest mystery events might have taken a swifter turn. One of the signatories, some say a woman, felt a prick in the sole of the foot at the very moment of signing. A gimlet point was quickly discovered in the platform, and when the flooring was torn away two tramps, one with a wooden leg, were found ensconced beneath; their lair was not arranged for a short stay, for they had a considerable supply of provender. Unable, or at least unwilling, to give a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

satisfactory account of themselves, the enigmatic pair were finally seized by the rabble, carried to a distance and done to death, without confessing. Such was the riot and turmoil which ensued that Bailly, the mayor of Paris, declared martial law and fired on the throng, which still filled the square. A number of innocent victims fell dead. The mayor said twelve bodies were found; the radical leaders declared that hundreds were murdered.

This deplorable affair gave a sudden and prolonged check to the quiet but steady evolution of democracy which had been going on under the surface of society for some months previously. The respectable members of the Jacobins would no longer associate with a dirty, headstrong rabble and went over to the Feuillants Club, leaving their own in the hands of irresponsible fanatics. The republican impulses of the middle classes were so completely quenched that the very words "republican" and "democrat" were for a time abhorrent. Some twenty leaders of the rising movement were indicted as disturbers of the peace, a number were arrested and many more fled or hid themselves; men like Desmoulins, Danton and Marat were conspicuously invisible for several days or weeks. It did not require a very keen insight to observe that terror of anarchy was causing a reaction from democracy. Yet the sense of persecution did but invigorate the convictions of many republicans and secretly strengthened the ranks of the party — numerically that is. Political democracy in France was distinctly the child of the religious democracy expressed in the civil constitution of the clergy. When it had become clear a year earlier, in October, 1790, that king and pope alike eschewed the system of that paper all pious Frenchmen grew uneasy, and the general belief that the petitioners of 1791 were thugs, vandals and anarchists confirmed doubters by the hundred thousand in their reactionary tendency. In consequence the general quality of the democratic party was now vastly inferior to that which it had in its inception.

So strong was the popular reaction that vigorous efforts were made in administering the lately adopted provisions of the new

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

constitution to limit the suffrage, even more than was legal. At the same time it was decreed that the constitution should not be subject to revision for a period of ten years. The constitutional monarchists hoped in this way to erect an impregnable bulwark against not merely democracy, but moderate republicanism as well. However, both efforts proved utterly ineffectual; for since the amendments could not be submitted to electoral assemblies which had already adjourned, the Legislative was elected under the existing limitations of suffrage; and as to revision, where was France ten years later in regard to constitutions? In 1801 she was already under the chastisement of paper constitution number four in the revolutionary line. As if completely to extinguish democratic zeal, the long interregnum of monarchy without a monarch was closed not by the punishment but by the reinstatement of Louis XVI as a reigning sovereign. This act was attended by great enthusiasm on the part of the majority of Parisians, though there was an ominous counter demonstration when Robespierre and Petion appeared after the last session of the Constituent and exhibited themselves on the terrace of the Tuileries. The eminent trimmer from Arras was seriously embarrassed in his effort to carry water on both shoulders. With a politician's cleverness he appealed to the dignity of the populace, calmed their agitation and departed wondering whether the beam of the balance would ever tip again toward a republic in fact and name. It might well seem as if democracy in France had met a decisive and final repulse. Its representatives were no longer even respectable.

The Constituent Assembly had taken all power from nobles and prelates as such, relegating the individuals of both ranks to political equality with the great middle class. In a way its successor, the Legislative Assembly, was a burgher body, but in reality the truly representative men of that great middle social stratum had been relegated to obscurity by the self-denying ordinance, and the members of the legislature upon whom devolved the grave duty of working the new system were mostly youthful and inexperienced mediocrities. In spite of the fact that many thorough democrats had been elected

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

deputies, — men like Danton, Fréron, Desmoulins, Brissot and Condorcet, — at the outset the burgher democracy was therefore as inert as the nobility. It was not however as an avowed democrat but as a famous scholar that the last named was chosen. The other liberals, as well as a few royalists too, had been slipped in on one pretext and another. So few were the disturbing elements of both sorts that there was every appearance of homogeneity and resignation in the membership as a whole. The National Assembly had received the king with traditional etiquette; immediately on assembling, the Legislative formally voted to diminish those honors so substantially as to treat the monarch like a chief executive merely. This resolution however so stirred popular opinion, which was naturally timid, that when the king appeared on the floor of the house he was received with the formal deference due to a divine-right Bourbon. There was such a loyal uproar as to eclipse any antagonistic demonstration.

Never was a more amazing exhibition of vacillation, and throughout its term this forcible-feeble temper characterized the ill-starred body. It displayed an ignoble inconsistency at every crisis. That it was overwhelmingly royalist there can be no doubt: even the Jacobins applauded a royalist pamphlet written by Collot d'Herbois, and the most radical journals consented to "sponge off" the past and give the king a new chance. Yet there were times when demagogues of both extremes not only gained a hearing but were heard with loud applause. The strongest proof of what the situation was held to be by those best informed is exhibited in the conduct of the king.

Louis now felt so sure of his position that religious turmoil began instantly and rioting broke loose; the non-juror clergy renewed their infamous agitations far and near, while the pious king not only refused to approve a decree compelling an oath of allegiance from all priests but also vetoed a law directed against the emigrants. Simultaneously (December 3, 1791) he secretly advised Frederick William of Prussia that an armed congress of monarchs would not only improve matters in France but prevent the flames of revolution from catching in other European

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lands. Of this fact there was merely a slight inkling among the Paris leaders, but strong almost to certitude was the general suspicion that the sly Fabian policy of the royal cabinet was a mask for actual negotiations with the court of Vienna. Such was the uneasiness of absolute kings in view of the extraordinary interest which their peoples were taking in the transformation of France that the tone of foreign courts and officials grew warlike; such was the distrust of the French in their king that nearly all Frenchmen longed for war to end their suspense. The bitterness against Austria grew so intense that a deputy (Vergniaud) on the floor of the legislature actually menaced the queen with the scaffold. Louis was intimidated; he dismissed his Fabian advisers and called to office the Roland-Dumouriez ministry, which on April 20, 1792, declared war against Austria. The emperor had impertinently declared his intention of interfering in French domestic affairs, and France sprang to arms. So too did Prussia, however, and the over hasty French suffered one repulse after another.

The legislature with illogical desperation took three ill-advised steps. It decreed banishment for all non-juror priests and so exasperated every loyal ultramontane and royalist almost to distraction; it decreed the disbanding of the king's guard of mercenaries and so confirmed him in his traitorous plans; it decreed the establishment at the very gates of Paris of a camp where a muster of 20,000 armed men could intimidate the city and so threw all conservative hearts into an agony of fear. These measures of desperation rendered compromise no longer possible; thereafter men were either French or foreign, and the members of the foreign party, royalist and ultramontane at core though with a substantial following of inert conservatism, had now either to hide or fly. Some of them chose the latter alternative; the vast majority kept silence and waited. Louis of course could do neither, so he accepted the loss of his guard and approved the measure for disbanding it, but he refused to do violence to either his faith or his liberty and vetoed the other decrees. The patriot ministry he dismissed, and when Lafayette, who had been its moral and military backer, foolishly wrote a menacing letter

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to the legislature from his headquarters in the field it appeared that king, nobles, prelates and burghers were all alike incapable of meeting the situation, quite the most serious which had so far arisen. The eclipse of democracy was ended and it emerged from its obscuration more brilliant than ever to try its hand at saving France.

Already Anacharsis Cloots had publicly condemned the monarchical system as responsible for the war and had begun to distribute his book in favor of a universal republic. So far was he from being the contemptible and insignificant figure described by hostile pens that in this crisis, as at many others, he got a respectful hearing, and a few days later (April 29, 1792) certain journals declared that the idea of a republic in France, chimerical before the war, was now worthy of consideration, especially in case of defeat. To the radicals it seemed as if a new horror were menacing the country—the horror of a burgher republic. Almost at once Desmoulins admits in his new paper that Jacobin France wants a republic in reality but not in name; Robespierre then appears in his new paper with violent condemnation of the republic in the sense of an aristocratic commonwealth and suggests an intimidated monarchy with a democratic constitution as something altogether preferable. With moderates and radicals alike resolved on some form of popular government the question was, which type of republicanism should win.

It was a curious instinct which at this juncture prompted the Paris demagogues to organize the whole populace, even its dregs, into a vast procession with a view to exhibiting their power. This was done on June 20. The leaders appeared at the bar of the Assembly, and the march past the Tuileries was carried through without a hitch. No doubt the king would have been rabbled had he shown fear, but he was exasperatingly calm and gave no possible offense. The throng of passers, though armed, was therefore an orderly one, except as they cracked their rude jokes, many of which indicated an amused and patronizing sympathy for the poor monarch who henceforth could have, as their leaders said, no other will than the law;

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Qui veult la loi, si veult le roi, was their new reading of the old saw. In fact, the day ended in a burlesque. As various banners were carried past with their crude mottoes, "rights of man," "liberty, equality," "the rising of the breechesless" and what not, there were hoarse answering shouts of "Sanction the decrees, call back the patriot ministers," "Choose between Coblentz and Paris" and the like. The king's lips were seen to move, but he could not be heard; he also waved his hat, and this was beheld with satisfaction; finally he seized a red Phrygian cap from one of the passers and set it on his own head. A pandemonium of enthusiasm broke loose, and when finally the shouts subsided it was an orderly, jolly mob which melted imperceptibly away to jest about the king as a prince of good fellows. The monarch, however, felt himself humiliated anew in the sight of mankind; he had promised nothing; he was sullen and bitter; he neither recalled the ministry nor withdrew his veto of the decrees. Both classes of liberals — the departmental, burgher republicans, soon to be known as the Girondins — and likewise the radical remnant of the Jacobins, disavowed all responsibility for what had happened and glowered at a chief magistrate who could stoop to theatrical effect like that produced by the incident of the Phrygian cap. Yet June 20 was a turning point, and the instincts of demagogues high and low were justified: the monarchy in Louis's person was further degraded; the populace had for once exhibited itself as decent and orderly, perhaps it might be trusted further.

Here was a blind alley indeed; the king as Europe saw him, — a prisoner, a butt, an object of contempt, the sport of a fickle populace; the king as both republican factions saw him, — an indispensable puppet, subservient to the burgher ambitions of one, equally essential to the democratic aspirations of the other. No thoroughfare for sincere, constructive statesmanship was to be found. A week later Lafayette came bustling to town, demanding the punishment of those who had arranged these last humiliating scenes and ready to support the throne with troops enough to restore its respectability. But the queen

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

disliked and mistrusted M. Lafayette. One of the armies in the field was soundly beaten while he loitered, and he had to hurry back to his post with nothing done. The culprits seemed to have some justification after all if disgrace in the field was, as sober men declared, the consequence of royal plots. This, if true, could in logic only mean a republic. Away swung the pendulum after the manner of the ill-starred Legislative. No republic in name, but the royal democracy we have. On July 7, 1792, Bishop Lamourette proposed to end all dissension by the simple means of decreeing anew loyalty to the existing constitution. A kind of hysterical sob of relief arose from the Assembly, the vote was unanimous and the deputies fell on each other's necks and gave one another a fraternal kiss. The king was summoned and surveyed the scene with sensibility. He left amid ringing cheers and shouts of "Hurrah for the nation! Hurrah for the king!" In default of justice on the demagogues, the Department of the Seine by sanction of the king took vengeance by removing from office two radical officials of Paris, Petion, the mayor, and Manuel, the attorney-general.

It is curious but true that the idea of democratic monarchy has fascinated many able men and has controlled important periods of history: the deputies of the Legislative might possibly have realized this ideal had the king himself been loyal to it. But between them there was a reciprocal distrust, deep-seated and persistent. When the plan of the armed camp was published it proved to be a scheme not merely for intimidating the Paris conservatives but also for an increased national representation at the capital. The men were to be volunteers formally elected by universal suffrage in all the departments, and each corps was to be in residence either permanently or long enough to absorb the controlling ideas of the national movement before returning to disseminate them at home. Since these armed men would complete the system of federation, they were known as federals. It must not be forgotten that the revolution had been a spontaneous movement of the French municipalities, each self-directed and having no vaguest thought of subordination to Paris. Federation therefore was so far the only general

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

concept of French unity. Many of the communes, especially in southeastern France, had acted upon the widespread understanding behind the suggestion of the camp and had already chosen their armed representatives; those from Marseilles started at a moment's notice and were already on the way when the king refused his consent to the act which established the camp — a new Bastille, as awful and menacing to royalty as the old one had been to personal liberty. It was expected that the demonstration of the citizen soldiery would be highly impressive, since on the coming July 14 the national guard and the reserves, as well as the federals, were to take the "federative oath" in a mass. The expectation was fulfilled; for the king, seeing his wishes completely disregarded, gave a forced and grudging assent to the ceremonial with all it implied. What seemed the last insult was put on him by restoring to office the discharged radicals.

Yet even further despite was shown to Louis personally, and incidentally to the royalty whose tradition he represented, by the apparently simple act of the legislature declaring the country in danger. This measure had a twofold influence: first, it fixed in permanence existing administration in the provinces, put arms into the hands of every male capable of bearing them and increased both the potentiality and reality of an armed commonwealth; second, it revealed that the nation had to be saved, not by its chief magistrate and his activities but by itself through measures devised by its own representatives, in a second uprising as essential for its unity and independence as that of 1789 had been for its emancipation. If every able-bodied man was to enroll as a combatant — and this the legislature invited him to do, whether an active or passive citizen under the definition of the existing constitution — it was clear that the limited suffrage upon which that distinction was based could not long survive the institution of universal manhood military service and must give way to universal manhood suffrage. Here was indeed a radical democracy in fact if not in name, and armed at that. One and all, these measures of the Legislative met with an enthusiastic response from the masses, both in the departments and in Paris.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

One of M. Aulard's most salient novelties is his proof of this fact from the departmental archives. True to their instinct and habit as Frenchmen, the two elements of the population gave vent to their feelings by voluminous resolutions and addresses in regard to the events of June 20. The departmental authorities derived their being from the burgher monarchy and were loyal to it, so that without exception their messages reprobated the treatment of the king; they were enthusiastic supporters of the federal idea through which they could retain a substantial autonomy for the privileged voting class. But the denizens of the towns and the agricultural laborers whose influence was felt in the communes were not so enthusiastic for the constitution of 1791, which denied a vote to so many Frenchmen. Many communes of the south and east, where the spirit of liberty was rampant, were not slow to express dissatisfaction with the king, and their addresses may still be read in the national archives. These papers demand in some cases the deposition of the king, in several the abolition of monarchy. Yet not a single one employs the term "republic." The spontaneous uprising of the plebeians seems to have been momentarily checked by the word which had gone forth from Robespierre. But several suggest a convention to create a new form of government. The hearthstone of democratic feeling and democratic energy was, as twice before, in Marseilles.

The federals from the great southern capital marched to Paris with a deliberate intention of supporting the popular authority against that of the king and fully aware that the royal veto had fallen upon the measure they intended to uphold. Clearly the experiment of the royal democracy or democratic monarchy was to have no fair trial from the democrats, and its shrift would be short, if indeed it ever came to breathe the air of day and did not die stillborn. It is well known that the Marseilles company was shrewdly directed. Composed of excellent middle-class young men, its captain, a soldier of experience, recognized the adaptability for their purpose of the song lately written by Rouget de Lisle, an officer of the Strasburg garrison, for the army of the Rhine.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

So they enlivened the long march with its strains, displaying extraordinary enthusiasm as they passed through the numerous towns on their way. One of the most stirring stanzas was sung for the first time as they marched through Vienne; they sang the whole as we know it when met at Paris by the butcher, Santerre, leading his serried ranks of the populace. Such was their success in rousing themselves and others to a semi-hysteria of patriotism that whatever their ideas may have been on leaving home, whether opposed merely to Louis or to royalty in any form, this last was their conviction now, they were flatly republican.

Certain other federates there were likewise in Paris, from Brest, Toulon and many cities, who had scorned the royal veto and the circular letter of the ministry, and had defiantly registered themselves, as provided by the act, at the city hall of Paris. Many of these were more concerned to protect the Legislative against Paris than desirous of overthrowing Louis, and most were of one mind with Robespierre and his Jacobins, who still, whether sincerely or not, proclaimed themselves royalists; they merely wanted another king, better guided and more economical. But the fiery southrons of Marseilles were a compact body of 500 fine, well set-up young fellows, with minds clearly fixed on a definite object. All told there were but 2960 registered federates, and the other thousands from elsewhere were but half-hearted. "Federal" in any definite sense was soon synonymous with "republican"; the *Marseillais* were the republicans, and their song, *La Marseillaise*, was the tocsin of democracy — a chant patriotic, disdainful of monarchs, confident in the plain children of the fatherland as their own saviors. Robespierre trimmed, Desmoulins schemed; Danton counselled firmness and summoned the federates not to leave for Soissons, as ordered, until Louis was no longer king. Even he dared not enunciate the fateful word "republic," though it was already in the hearts of thousands upon thousands.

Such was the general respect for the new constitution, itself a miracle as it seemed to millions, that because it had monarchy

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in it no man dared to lay hands on the ark. The festival of federation on July 14 proved a cold and hollow ceremonial: there were cheers for the nation, for unity was a blessed thought to those who had ground under the injustices essential to disunion; but, on the one hand, there was not a cheer for the king, nor, on the other, a cheer for the republic. The very next day, however, men spat out the word with defiance in the sessions of the Jacobin Club, while some suggested that a constitutional change would create the radical monarchy. Let a two-thirds vote of the eighty-three departments be the sole veto on a law, and for a limited suffrage substitute universal manhood—not womanhood as yet—suffrage wherewith to elect directly, without the intervention of electoral assemblies, the deputies to a national convention. Coming thus direct from the sovereign people, such a convention would express the popular will completely, spontaneously, powerfully. Such was the ferment that the sly Robespierre felt there must be a vent or there would be an explosion. To assure radical preponderance they must be rid of a burgher king and a burgher general; so by his advice the federates formed a committee which on July 17 twice demanded at the bar of the Assembly that the king should be suspended, and once that Lafayette should be indicted. Not yet the fateful word "republic," at least without the gates in the hearing of men; on the contrary this language in their petition: "We do not refuse to obey a king." And they announce to the world that they will remain in Paris to "combat a perfidious court, a coalition of impudent tricksters." Finally they assail the Legislative, at last demanding categorically on August 3: "Can you save us or can you not?" The people had risen in solemn determination to save the commonwealth; it would be well to summon the primary assemblies far and near and make ready, if present means fail, to call the people itself to the helm of state. In all this they expressed the policy which they had hatched by the aid of the Jacobins, in full accord with the leaders of the Paris populace, the self-restrained but jovial body so lately engaged in a street holiday where the king himself had been a mummer.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

There must have been a general understanding. The radical press with one accord began to abuse the king as a "domestic and constitutional foe," a "crowned Tartufe," a "Louis the False." Incidentally and covertly it fulminated against royalty as a system. One journal suggested the abdication of both king and legislature and the appointment of a dictator triumvirate; another proposed a regency; between July 14 and August 10 there was but one obscure mention of a republic, and then only in connection with an academic debate on equality. These sentiments were not inspired by the federates alone nor by the demagogues of Paris. The capital was now divided into forty-eight sections or wards, each with an organized local government which was not anarchical. These authorities differed widely in political complexion; many were thoroughly burgher, many royalist; most however were proletarian, that is, devoted to the social and political advancement of the masses. One demanded that every taxpayer, however insignificant, should be an "active" citizen, another actually established universal suffrage within its jurisdiction, still another refused to acknowledge Louis XVI as king; finally all but one chose representatives, who sat for six days at the city hall and drew up a paper which was presented to the Assembly on August 3 by Mayor Petion. This document first denounced the burgher authorities of the departments, who were supporting the king against the will of the communal powers who hated him. It then demanded the dethronement of Louis, the exclusion of the reigning dynasty from power, the appointment of a provisional government and the summons of a convention to declare the national will. So menacing was the temper of the wards that one of them announced the ninth of August as the limit of their patience. If justice were not done by the Legislative at midnight of that fifth day, the alarums would sound and the people would take matters into their own hands. It was tacitly understood that here spoke the voice of all the wards. The worthless legislature exhibited in its last throes its worst qualities. During the pregnant, priceless days it loitered, wavered and faltered. One day it received petitions for dethronement, the next petitions

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for the punishment of those who dared to suggest it, and still again it heard with complacency a report on Lafayette's conduct. By an almost two-thirds vote it acquitted the general who was considered the bulwark of the throne, deciding that there was no ground for indictment. This was on August 9, and the passions of the multitude could no longer be restrained. The Legislative would neither support nor overthrow a king who, whatever he was, could not play the part of a democratic sovereign. The populace, the wards and the federates had surely given fair warning of their purpose; they proceeded from threats to deeds, and the awful scenes of August 10 were the performance not of a mob but of an organized force with an indeterminate but powerful sanction from the French masses throughout the country, blindly but fiercely resolved to end political inequality and transfer power from the privileged classes to the people.

Throughout the terrible hours of violence and bloodshed there was no call for a republic. The deputies were mere nonentities and bowed to the storm. To meet all emergencies they took an oath in the name of the nation to maintain liberty and equality or die at their post, voted to call a national convention and suspended from office the "chief of the executive power." They held the king and royal family as hostages, but they neither declared the throne vacant nor did they abolish monarchy. Brissot claimed in defense of the Girondins that the Assembly did not so act from timidity; but feeling assured that the national mandate for which they had asked would bring in the republic, merely awaited their time till they could act with plenitude of sovereign power. This was not true, for among other hasty and ill-digested pieces of legislation was one which looked to a guardian for the dauphin, and they intended to assign Louis a lodging in the Luxembourg palace, not a cell in the Temple. It was the populace which made prisoners of the king and royal family. It was clearly public opinion which later converted the Girondins to republicanism.

The Legislative was at no loss as to a substitute for the king. He had been suspended once before on his forced

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

return from Varennes. So now they imitated the Constituent and proposed an executive committee. This was not, however, now as then, to be composed of royal ministers. Few doubt that Danton's hatred of the Bourbons was a foremost incentive to the leaders of August 10. The Assembly certainly behaved as if under that impression, for it put him at the head of its committee or ministry: Danton, Monge, Le Brun, Grouvelle, with the three "patriot" ministers who had been dismissed, Roland, Servan and Clavière. This was called the provisional executive council; and such a council, its membership and powers being changed from time to time, ruled France from August 13, 1792, to April 19, 1794. Condorcet long after declared explicitly that Danton was made minister of justice — by the radical deputies, of course, for out of 745 members only 285 were present — because he was the only man who had the confidence of the populace and was at the same time of character and parts sufficient not to degrade the general quality of the ministry. In this quality he promptly became master of the council. He would have been substantially a dictator, except for the fact that a revolutionary organization had been set up by the ward leaders anterior to their attack on the Tuileries and having usurped the power had now completely supplanted the legal authority in Paris. By means of illegal but well-supported elections the number of this body was increased to 288. It held regular sessions, and numbering among its members the most ardent and unscrupulous leaders of the populace, men like Robespierre, Billaud-Varenne, Fabre d'Églantine, Chaumette and Pache, it took all the credit for the insurrection and successfully arrogated to itself the management and control of internal affairs. Its committees overawed both the legislature and the executive council in the most important crises. The legally constituted executive was sovereign only in foreign and military affairs. Fully aware of its precarious existence, the Legislative determined to abdicate. Establishing a suffrage from which women and menial servants alone were debarred, it completely overthrew all the limitations, balances and checks of the constitution, except that of indirect

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

election, arranged for the choice of a sovereign convention and adjourned. One thing was assured, — that pure democracy was to have a trial in France. It was not yet clear whether it would be a monarchical, dictatorial or elective democracy. If monarchical, it would not be led even nominally by a Bourbon, not even a radical Bourbon like Philippe Égalité. Thus France entered upon the most pregnant forty-two days of her political history, a period in which was opened the struggle between the capital and the provinces, destined to give form to her politics in some degree down to the present day.

W. M. Sloane.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE ELECTION OF UNITED STATES SENATORS BY POPULAR VOTE.

IN the discussion upon the proposed amendment to the constitution in regard to the election of senators, it has been asserted, vigorously asserted, by several of the most eminent and learned members of the Senate that the election of United States senators by popular vote, instead of by the State legislatures, would, at one stroke, change the character of our political system. The object of this paper is simply an inquiry into the correctness of this statement, and it is not undertaken either in advocacy of, or in opposition to, the proposition. Without loitering further upon the threshold of the subject let us ask, and endeavor to answer, the cardinal question upon which this inquiry must rest, *viz.*, What is the fundamental character of our political system? As concisely as I can put it, I hold it to be a system of national popular sovereignty, operating through a federal, presidential, republican form of government, and imposing a series of constitutional limitations upon the powers of government in behalf of individual liberty. Perhaps this is too concisely stated for the general reader. I will therefore briefly explain what I mean by the different parts of this definition.

1. By the phrase "national popular sovereignty," I intend to attribute to the people of the United States, as one people, the original and ultimate authority to constitute and empower government and to define and guarantee liberty. This is not simply a postulate of my political science; it is the plain declaration of the opening words of the constitution, interpreted by more than a century of our political history. Though in the forms of action prescribed in the constitution by the sovereign power for itself, in making subsequent changes of the organic law, regard is had to the federal principle of government, that does not

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

affect the national character of the sovereign power. It only makes the power more difficult of application. It is not necessary, however, to discuss this point any further. Those staunch Republican senators, who affirm that the election of United States senators by the voters within the States would change the character of our political system, certainly do not mean that the change thus effected would reach so deep as to produce a transformation of the sovereign power. They evidently only intend to claim that the system of federal government would be undermined by it.

2. Let us, therefore, examine in more detail that part of my definition which refers to our governmental form. I have denominated it a federal, presidential republic. I mean by this, in the first place, that it is a system of dual government, consisting of a general government of enumerated powers, and local governments — the States — of residuary powers, both resting upon, and defined and authorized by, the national constitution. It is true that a part of our national territory is not now under the federal system of government, as thus defined, and that there never was a moment when the whole of it was under that system. We have always had, and do still have, territory under the exclusive government of the national Congress. But the spirit of our system regards this as a temporary condition to be cured from time to time, and not as a modification of the federal principle.

I mean, in the second place, that our system of government is one in which the legislative and executive functions are confided, in the main, to separate departments, largely independent of, though coördinated with, each other. I intend by the term "presidential government," a situation in which the executive is not dependent upon the legislature for its tenure, and is not responsible to the legislature for the policies it may pursue — the antithesis of parliamentary government, that is, of parliamentary control over both the tenure and policies of the administration.

And I mean, finally, by the term "republican government," government by the representatives of the people, elected more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or less frequently by the voters, or by electors chosen by the voters, under a law of fairly liberal suffrage, and administered for the public welfare.

3. The third fundamental element in our system of government is the series of constitutional limitations imposed by the sovereign power, through the constitution, upon governmental power, in behalf of individual liberty, and safeguarded by an independent constitutional judiciary. When compared with other governments this is the most important and characteristic part of our entire governmental system.

As briefly as I can state the subject, these are the fundamental principles and qualities of our political system. Now let us examine carefully the question as to what parts of this system would be fundamentally transformed or affected by changing the method of choosing the United States senators from election by the legislatures of the States to election by the voters in the States respectively. As we have already seen, it is hardly conceivable that this change could affect, either immediately or proximately, the principle of the ultimate sovereign power in our system, and it is apparent that the contention of those who oppose it does not reach so far. That the change might exert even a remote influence of this sort could be claimed only from an ultra-State-sovereignty view of our present system, a view which the honorable senators who oppose the change certainly do not entertain. Furthermore, it cannot be meant by them that the third fundamental element in our system — the element of constitutional limitations upon governmental power in behalf of individual liberty, safeguarded by an independent constitutional judiciary — would be affected by the proposed change in the method of electing senators. Their contention must apply to the second part of our system as set forth in my definition, and to only a part of that, since the change certainly would not necessarily affect either the independence of the executive or the republican quality of the government. Those who oppose the change must therefore intend by their proposition that the federal character of the government would be affected and transformed

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by, or in consequence of, the change proposed in the method of electing United States senators; that instead of the system of dual government we should have, sooner or later, the centralized system as the result, either immediate, proximate or remote, of that change. This is, at last, a definite, exact and fairly limited proposition, one which we may examine with some hope of reaching a distinct and truthful conclusion.

Stated a little more fully, the proposition must mean that if the United States senators who now are said to represent the States in their corporate capacity should be elected by the voters instead of by the State legislatures, they would then represent the people, just as the members of the House of Representatives do, and that this change would bring about, either immediately, proximately or ultimately, a simple centralized governmental system in the place of our present complex federal system.

Let us first ask whether it is true that the representation of a State of the Union in its corporate capacity in the national Congress requires the choice of senators by the State legislature. If we should take counsel of Mr. Calhoun, the grand apostle of State sovereignty and integrity in our history, we should be obliged to answer, No. Calhoun claimed that the ultimate organization of a State was in convention of the people of the State. According to him, the State acting in its corporate capacity, in the highest and most ultimate sense, must act through its convention. An election of United States senators by conventions of the people within the States would, then, still be an election by the States in their corporate capacity, even in a higher sense than when elected by the legislatures. Certainly these eminent Republican senators will not undertake to out-Calhoun Calhoun himself upon this subject. Now if the election of the United States senators by conventions of the people within the States would still be an election by the States in their corporate capacity, why would not their election by the voters within the States be also an election by the States in their corporate capacity, provided, of course, that the senators from each State should be chosen upon a general ticket; that is, that the State as

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a whole should form one senatorial district, so to speak. Is not the body of the people the ultimate body politic, under the sovereignty of the nation, within a State of the Union? Is it not the State in its highest corporate capacity? Would the change be anything more than the substitution of the process of direct for that of indirect election? This might possibly be said to be a more democratic method of election, but is it incompatible with State representation in the Senate of the United States? From the reasoning above given, I must say that I cannot see that it is, at least not immediately. What might be its ultimate influence, I will consider a little further on.

But, as a matter of fact, does election by the State legislature make the senator so elected the representative of the State, in its corporate capacity? My answer to this question is that such election may be one of several things which might conspire to produce this result, but that it is not an indispensable element in the combination, and of itself cannot establish the relation in question. What I mean by this proposition is, in the first place, that either appointment by the governor, or election by a convention of the people or by a State electoral college, or by the whole body of the voters within the State, might just as well be considered a choice by the State in its corporate capacity as election by the legislature; and, in the second place, that several other things must be combined with either of these methods of election before the senator can be said to represent the State from which he is sent in its corporate capacity. I will mention as one of prominent importance, that the State must be able to instruct the senator, and the senator must be bound to obey the instruction. Now let us see how that would work in a system where the senatorial term is six years and the term of State legislative membership is usually two years. In such a situation the political complexion of the legislature may change twice during the period for which the senator is chosen. As a fact it frequently does so change. Let us suppose that a State legislature chooses a Republican for United States senator, and in two years the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

legislative majority becomes Democratic. Would the Republican senator accept and follow an instruction from the new legislature to vote with the Democrats upon all or any questions of party policy? Would the new legislature presume to issue any such instruction? I think that both of these questions must be answered in the negative, and yet how can it be claimed that the United States senator represents the State in its corporate capacity, unless the State may, in that capacity, instruct him at its pleasure and unless he shall be held to obey the instruction?

Again, in order to make such a principle of representation effective, the State must, in its corporate capacity, be able at any moment to recall the senator. But in the way of this stands flatly the provision of the constitution of the United States fixing the term of the senator at six years.

Is it not entirely evident from these considerations that a United States senator does not represent a State in its corporate capacity at all, but represents the people within the State, and represents them upon the basis of the principles of the national party to which he may belong? Is there really the slightest difference in character between what he represents and what a member of the other house of the national Congress represents? Do not both of them represent the interests of the whole country upon the basis of the principles of the party to which they belong and from the point of view of their own independent judgments? It seems to me that to pose these questions is to answer them, at least for any one who has a moderate acquaintance with the history and practices of the national Congress.

It would certainly require an amendment to the constitution to effect the proposed change in the method of electing the senators. There is no question about that. But changes in the provisions of the constitution are not necessarily transformations of the fundamental principles of our political system. Only relatively few of those provisions are so basal that their modification would work such far-reaching results; and I think it is manifest, from what has been said

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

above, that the method prescribed for electing the senators is not one of them.

There is, however, a point of view from which the proposed change may be seen to exert an influence, at least, which may appear more serious — the point of view of the constitutional provision prescribing what is termed "the equal representation of the States in the Senate."

The Senate of the United States is at the present moment the worst rotten-borough institution in the civilized world. To illustrate this proposition, let us examine the statistics of population and of senatorial representation in the five principal federal systems of the world, namely, Mexico, Brazil, Switzerland, the German Empire and the United States.

1. In the Mexican system, which provides the same number of senators from each State, the smallest State in population is Colima, with about 60,000 inhabitants, and the largest is Jalisco with about 1,200,000. From the point of view of the principle of representation according to population, Colima's representation in the national Senate is about twenty times as strong as that of Jalisco. Furthermore, there are in the Mexican Union, if we count in the Federal District, which sends senators to the national Congress, twenty-eight States, with a population now of about 13,000,000 souls. Of these some 3,000,000 reside in the fifteen smaller States, and some 10,000,000 in the thirteen larger States. That is, 3,000,000 people are represented in the Senate of Mexico by thirty senators, while 10,000,000 are represented by only twenty-six senators.

2. In the Brazilian system, which provides for three senators from each State and from the Federal District, the smallest State is Matto Grosso, with about 200,000 inhabitants, and the largest is Minas Geraes, with about 3,500,000. From the point of view of the principle of representation according to numbers the people of Matto Grosso are nearly twenty times more strongly represented in the Brazilian Senate than the people of Minas Geraes. Moreover, there are twenty-one States in the Brazilian Union, counting in the Federal District, and the population of these twenty-one States is now about 17,000,000

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

souls. Of these about 4,000,000 reside in the eleven smaller States, and about 13,000,000 in the ten larger States. That is, 4,000,000 people are represented in the Brazilian Senate by thirty-three senators, and 14,000,000 are represented by only thirty senators.

3. In the Swiss system, which provides the same number of members from each of the cantons or States of the Union in the Upper House of the national legislature, the smallest canton is Uri, with about 18,000 inhabitants, and the largest is Bern, with about 550,000. From the point of view of representation according to numbers, the people of Uri are about thirty times more strongly represented in the Upper House than the people of Bern. Again, there are twenty-two cantons or States in the Swiss Union, and the population of these now numbers some 3,000,000 souls. Of these some 800,000 reside in the twelve smaller cantons, and some 2,200,000 reside in the ten larger cantons. That is, 800,000 souls are represented in the Swiss Senate by twenty-four senators, while 2,200,000 are represented by only twenty senators.

4. In the federal system of the German Empire, which assigns a fixed number of members of the Federal Council, or Senate, to each State, though not an equal number, the smallest State is Schaumburg-Lippe, with about 42,000 inhabitants, and the largest is Prussia, with about 33,000,000. The constitution of the empire assigns one voice in the Federal Council to Schaumburg-Lippe and seventeen voices to Prussia. From the point of view of the principle of representation according to numbers, Schaumburg-Lippe is from forty-five to fifty times more strongly represented in the German Senate than Prussia. Further, there are at present twenty-five States in the German Union, and the population of these twenty-five States is about 55,000,000 souls. Of these about 10,000,000 reside in the twenty-two smaller States, which have thirty-one voices in the Federal Council, and about 45,000,000 in the three larger States, which have but twenty-seven voices.

5. Lastly, in the system of the United States of America, which provides an equal number of members from each State

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the national Senate, the smallest State from the point of view of population is Nevada, with 42,335 inhabitants, according to the last census, and the largest is New York, with 7,268,894. On the basis of the principle of representation according to numbers, the people of Nevada are nearly one hundred and seventy-five times more strongly represented than the people of New York. Again, there are now forty-five States in the American Union, and the population of these States is about 76,000,000 souls. Of these about 14,000,000 reside in the twenty-three smaller States, and about 62,000,000 reside in the twenty-two larger States. That is, 14,000,000 people are represented in the United States Senate by forty-six senators, while 62,000,000 are represented in this body by only forty-four senators.

Now when an American, of whatever political creed, contemplates these figures and statements, he cannot repress the feeling that there is something wrong with any political system which permits of such relations; and if the election of the United States senators should be transferred from the legislatures of the States to the voters within the States, it is quite conceivable that this feeling would be greatly aggravated, because the election of the senators by the voters would make more manifest the fact that it is the voters, or the people, who are represented by the senators; and there is a natural connection between election by the voters and representation according to numbers. Sovereignties of the same or of different strength may be regarded as equal in representative rights; but 42,000 men in one part of a country will with great difficulty be regarded as of equal representative right with 7,000,000 in another part of the same country, although they may reside in different States of a federal system.

In other words, election by the voters might have an influence in the direction of exciting a demand for a change of the principle of distribution of the senatorial seats. But in the face of such a demand, if it should come, stands that provision of the constitution, which requires the assent of each State affected to any such change.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

If, however, such a demand should come, and every State should yield to it, and a new principle of distribution of the senatorial seats, more in accord with the principle of distribution according to numbers, should be adopted, would that necessarily overturn the federal system and introduce the centralized system? It does not seem to me that it would. It does not seem to me that the federal system depends upon the equal representation of the States to any such degree that a change in that principle would destroy the system; and I think that the contradictory view rests upon a misconception of what a federal system of government is — a confounding of the federal system with the confederate system. The confederate system is a league of sovereignties, each of which is original and ultimate both in rights and in legal power. It is a *state system* in the true sense of the term state, as an original and ultimate sovereignty. In such a system the states must be and remain equal in rights, representation and political power, and any infringement of that equality would be a change of the system; for the inferior state could be bound against its will *legally*, which would be a denial of its sovereignty. On the other hand the federal system is a system of government only. As I have already indicated, it is a system in which the sovereign power, the real state, creates two sets of governmental organs, more or less independent of, but coördinated with, each other, and distributes the powers of government between them in such a manner generally as to make the central government a government of enumerated powers, and the local governments, the States or commonwealths, governments of residuary powers. It usually grows out of a preceding confederate system by a coalescence — violent or peaceful, but generally the former — of the several states which form the confederation into a single sovereignty comprising them all. This process almost invariably leaves the former states of the confederation with the same territorial boundaries and with the same political names as before, but always reduces them to the condition of autonomous local governments with residuary powers under the new constitution created by the new sovereign. They are no longer

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

states, however they may be called "States." Sovereignty is gone from them, and without that they are no longer what they were when merely confederated with one another. They do not always accommodate themselves readily to the new situation. They frequently still claim to be sovereign, and they sometimes, unhappily, attempt to realize the claim by physical force. Nevertheless, the foregoing is the exact scientific statement of their position, and they work into this position practically more and more fully as intercourse becomes more active and language more perfect, as interests become more harmonious and customs more general, and as the consensus of opinion concerning rights and wrongs becomes more completely established.

The federal system, therefore, is not so easy to understand as the system of confederated states or the system of centralized government. Most minds are always harking back to the confederate system to explain the *federal* system, and when they observe in the latter a tendency to depart radically from the former, they raise the warning cry of "centralization." Centralization the *federal system* certainly is, when compared with the confederate system. The sovereignty has become centralized in the people of the nation; the central government has become invested with more powers; and the tendency becomes increasingly manifest in the direction of withdrawing subjects of legislation from the local organs and confiding them to the general legislature. But all this is entirely compatible with the permanent continuance of the federal system. The local relations multiply as society becomes more complex, and what the States in a federal system lose from time to time to the central government, they more than recoup from the new fields that are opened up. The time will possibly come when all local relations will have been properly regulated, and when that happy condition is realized it is quite probable that the transfer of powers from the local to the central authorities will cease. The nation will have reached the climax of its political civilization under the federal system of government, and stagnation and decline may follow. But this is the fate of all earthly things, and we need

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not go so far into the future in regard to the question of the permanency of the system of federal government.

If, then, the fundamental principle of the federal system is that it is a system of government in which the sovereign power distributes governmental authority between two sets of governmental organs, the central government and the States, each largely independent of, but coördinated with, the other, how could a distribution of the senatorial seats upon some other principle than that of equality of the States overturn, or even modify, the federal system? The federal system does not depend upon any such principle in the slightest degree. If it did, it would be in most imminent danger of overthrow whenever the people included under it should become a nation and should establish national popular sovereignty as the basis of their political institutions. For such a principle of representation in either chamber of the national legislature is out of harmony with the system of national popular sovereignty, and when this lack of harmony is once clearly perceived and realized, there is no question which must give way. Now all the great states of the world have either become national popular sovereignties, or are far advanced in the processes of becoming such, and will inevitably reach that goal. If, therefore, we insist that the equal representation of the local organs, the States, within the federal system of government is necessary to the existence of that system, whatever may be the inequalities of the population within the different States, than I concede that we not only invite, but make inevitable, the overthrow of that system. But we do not need to take any such ground as this, and we ought not to do so. As has been shown, the fundamental principles of federal government, when properly understood, not only are not out of harmony with some other principle of senatorial representation than the principle of equality of the States, but are actually more in harmony with a principle which pays more regard to the relative population of the different States — more in harmony with a principle which rests upon the solid basis of political facts rather than upon the tottering foundation of political fictions.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The federal system of government, futhermore, not only is compatible with national popular sovereignty, but has many advantages over centralized government in that connection. I will mention only one, but one of transcendent importance. It is this, — that local self-government is the most powerful institution of political education that the world has ever produced, while the officialdom, the bureaucracy, of centralized government exercises an unfavorable influence upon the political training of the people.

I argue, therefore, that we must not bring on the destruction of the federal system by claiming as essential to it institutions which are merely accidental or are merely the clinging remnants of a preceding system. It is far wiser to shake off all such things as mere parasites upon it, and to seek its essence in such principles as will harmonize with the rational demands of the present and the inevitable developments of the future.

In view of these considerations, the claim that the proposed change in the method of electing United States senators would necessarily effect the overthrow of our federal system of government seems to me to be entirely unfounded, and to rest upon a confusion in the minds of those who make it of the system of federal government with the system of a confederation of sovereignties.

What puzzles me most in regard to the matter is that eminent leaders of the Republican party, the once great nationalist party, are most prominent in advancing this proposition, while Democrats, members of the old States' rights party, are pronouncing it false. Is this an indication that the two great parties may change rôles in the future? There is indeed no reason in the nature of things why the Democratic party should not be a party with a national creed. Its States' rights views came, in the first place, from the fact that its membership was made up of the less intelligent, more narrow-minded, elements of the people, whose vision could not sweep beyond the horizon of their own doorsteps, and, in the second place, from its commitment to the interests of slaveholding. At present it is emancipated from the latter thraldom, and is

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

giving some evidence of an improvement of its former condition. On the other hand, it is not unnatural that the Republican party, with its long lease of almost uninterrupted power, should lose sight, in some degree, of its original ideals and fall into the ruts of an ultra-conservatism.

Still these considerations are hardly sufficient to explain fully this phenomenon. There must be something else, something not so apparent as these public reasons, something more technically political. What that may be, it is not the purpose of this paper to inquire, any more than to argue for or against the proposed change in the method of the senatorial elections. It would be difficult to escape the influences of partisanship in entering on a course of reasoning upon either of these points; while the entire object of this essay is, as already stated, a non-partisan exposition of the fundamental principles and necessary elements of the federal system of government, with the view of aiding the students of this system to understand what changes in those principles and elements would be fatal to its existence, what would be unimportant, and what would be preservative in the necessary course of its development.

JOHN W. BURGESS.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE SAN FRANCISCO LABOR MOVEMENT IN 1901.

THE great struggle in the summer of 1901 between the employers and the workmen in San Francisco was one of peculiar significance. The principles at issue were of fundamental importance to our industrial system, and they were clearly stated and distinctly recognized on each side; both parties to the struggle were effectively organized and skillfully managed; the strategy adopted and the weapons used were of a strictly economic nature; the distance from other populous centers prevented any considerable interference from without; and the struggle was fought to a finish. No other strike of recent years discloses to us so clearly the principles of our labor unions, the methods they adopt and the obstacles they encounter. On this ground, even if there were no other, the conflict would be worthy of careful study. But a vastly enhanced interest is lent it by the fact that during the shock, recoil and subsequent mêlée of the contending parties there developed a remarkable political movement that resulted in giving to the labor unions the control of the city government.

Nowhere in the United States has the prosperity of the past few years smiled more benignly than in San Francisco. The annexation of Hawaii and the occupation of the Philippines, the establishment in the state of many new industries and the almost unprecedented growth of old ones, the formation of new commercial connections with Alaska and the Orient and the improvement of the means of communication with these regions, the increase of the expenditures made in the city by the federal government since the outbreak of the late war, the extension to the city of another transcontinental railroad, easier communication by rail with the interior counties, notably with counties on the southern coast, — all these things have contributed to widen the field for business operations, and the energy of the people has not been unequal to the opportunity.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

During the same period, investment and enterprise have been restrained by no great shock to the feeling of security. Failures of business houses have been few and their influence confined within narrow limits. The banks have been sound and confidence in them apparently unbounded. No important strike occurred to stop the wheels of industry and delay the fulfillment of contracts. Money has been easy, the retail business has been brisk and all who wanted it found ready employment. Recovery from the stagnation and business depression that marked the years from 1893 to 1896 was rapid and complete.

In the benefits of this commercial and industrial revival the share of the wage earners has been large. Seven years ago the streets of the city were full of idle men waiting to be hired at almost any price. Even for those that still had employment the hours of work were shortened and wages were lowered. When the tide turned, all this idle labor was absorbed. Then wages began to rise, first in isolated cases, afterwards almost universally; so that "at present," reports the California Labor Bureau in 1900, "demands for more pay and fewer hours are heard in all directions, and in most cases the demands are granted." In the accounts of the savings banks, the most sensitive test of the workingman's welfare, the story of this improvement is told in no uncertain accents. During 1894, $97,496,712 were deposited in these banks, while no less than $104,155,474 were withdrawn from them. In 1899 the amount deposited already exceeded the amount withdrawn by $5,705,411; and in the subsequent years the favorable balance became still greater. At the beginning of last year,[1] therefore, it was possible to say: "The condition of the wage earner in California compares well with the condition of the wage earner in any other place.... In almost every avocation he is better paid than elsewhere, while in general the number of hours he is required to work is no greater.... In San Francisco wages are higher than in any other part of the state." Such were the conclusions of the California Bureau of Labor, the whole staff of which was appointed by the present governor from amongst the laborers themselves.

[1] This article was written in January, 1902.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Now it is a very noteworthy fact that this improvement in the condition of the working classes was accompanied by a remarkably strong tendency to the formation of labor unions. Throughout the state during 1896 only three unions had been formed; seven others came into existence in 1897, and only two in 1898; while in 1899 the number of new ones organized reached twenty-five. The tendency grew constantly stronger in the following year, especially in San Francisco, and in December it received both stimulus and guidance through the arrival of a professional "organizer" sent out by the American Federation of Labor, so that during the winter of 1900–01 the working people of the city seemed to have succumbed to a perfect fever for "unionizing." By spring all the laborers in some of the mechanical trades and over fifty per cent in most of the others were embraced in the unions. "It can be safely stated," said the secretary of the San Francisco Labor Council, "that the affiliated unions control eighty-five per cent of the workers in their respective trades." But the process of "unionizing" did not end with the organization of the laborers into trades unions: the separate unions proceeded to establish close relations with one another by acquiring membership in the central bodies that already existed in the city. Of these bodies the most powerful is the San Francisco Labor Council, and it was with this that most of the unions became affiliated, so that during the strike of last summer it came to embrace no less than ninety-eight unions, with an estimated membership of thirty thousand laborers.

Through this federating process the power of the unions for weal or for woe was vastly enhanced. Many, however, of the older organizations were inclined to look askance at the admission to the council of the newly organized unions. It was feared that their inexperience might lead to a misuse of the influence their numbers would confer, that consciousness of strength would tempt them to actions through which the industrial peace then prevailing might be disturbed. In March *Organized Labor*, the official newspaper of the State Federation, urged the "unionizers" to make haste slowly, saying:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Our faithful and energetic organizers are to be commended for their untiring and self-sacrificing work, but we believe that at this time a word of warning is not out of place. . . . It is with a sad heart we behold the embryo labor union tumble out of its cradle and make an endeavor to carry away the earth and the planets on top of it. . . . San Francisco has experienced a union Pentecost breeze; the air is charged with union electricity, but beware of the storm. . . . May the Council and the older organizations realize their grave responsibility that labor's cause may not suffer.

In June it had occasion to lament that this advice was not taken. On the contrary,

the professional Organizer doubled his efforts and the Labor Council increased its Organizing Committee. Unions were formed; that is, very few of them were trades unions, but there were many, very many unions of divers occupations and callings. Charters were sent for, framed, and hung in the meeting halls until they covered the four walls. . . . The Labor Council gathered under its wings a most varied collection of eggs and hatched some curious ducklings and labelled them trades unions. . . . The old and staunch trades unions tried to stem the current by passing a law to the effect that no new union should go on strike before it had been organized and a member of the Council for at least six months. This sensible provision, however, failed to pass.

And if experienced "unionists" feared the blasts of this "Pentecost breeze," what must have been the anxiety of the employers? Why, it began to be asked, has this movement assumed so furious a pace in recent months? During the industrial depression when the laborers really needed help and should have stood shoulder to shoulder to render mutual assistance, many even of the old unions went to pieces. At present, according to their own confession through the Labor Bureau, their condition has been already greatly ameliorated. Wages are as high and hours as short as anywhere else in the world. And yet they are organizing at a rate that the city has never known before. What further do the unions propose to accomplish?

For an answer to these questions the employers did not have long to wait. The purpose of the movement was afterwards thus concisely stated by the *Coast Seamen's Journal:*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the early part of the present year the growth of organization among the workers of the city had proceeded sufficiently to justify a movement for the establishment of better conditions in many trades. Consequently a number of organizations in the Labor Council, acting with the advice and endorsement of that body, submitted proposals to the employers in the different trades looking mainly to the reduction of hours and the improvement of working rules. In some cases an increase of wages was asked, but these were comparatively few. As a result many unions gained substantial advantages. . . . With few exceptions the improvements asked were willingly conceded.

Among the unions thus gaining advantages the *Journal* enumerates no less than twenty-one. It seemed obvious then that the purpose of the movement was to force concessions from the employers. In April this had become so apparent that measures were taken to countervail the growing power of the unions. To this end nearly all of the wholesale merchants and manufacturers, together with many of the larger retail merchants, united in a secret organization which they called the Employers' Association. This body stated in its published declaration of principles that

its policy is not dictated by a spirit of aggression, but it shall be the earnest endeavor of its members to prevent friction and to peacefully settle all disputes that may arise between employer and employee. We believe that the frequent strikes and boycotts which, in the absence of any effective restraining power, have prevailed in this community and may hereafter prevail, are dangerous to its industries; and this Association of Employers is formed to check these growing evils.

The most significant provisions of its by-laws are found in Article VIII:

That in case of a strike or boycott in any of the different industries represented in this Association it shall be the duty of the Executive Committee to investigate the trouble, to act as, or appoint, an arbitration committee in its discretion, and to recommend such means to end the strike or boycott as it may deem advisable. All differences and disputes between members of the Association and any labor union, and any and all demands of any labor union against

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

any member of this Association shall be immediately referred to the Executive Committee or to the Secretary of the Association, *and no settlement or adjustment of such differences, disputes, or demands, shall be made save by and with the consent of the Executive Committee and in accordance with its instructions.* Nothing contained in this article shall be construed as applying to cases of differences, demands, or disputes between members of this Association and their employees as individuals.

The list of members and the names of officers, directors and executive committee were carefully concealed. All communications with the newspapers, the municipal authorities or the public at large were to be held only through the Association's attorney. There were numerous reasons for maintaining such secrecy. Perhaps the most potent lay in the fact that some of the members of such an organization would be far more exposed than others to boycotts and other hostile operations of the trades unions, and secrecy seemed to be the easiest way to equalize the risk. In addition to this, it was felt that participation in the work of such a body would be fatal to all political aspirations in a community where the labor vote is powerful and discriminating. Some, therefore, whose coöperation was necessary might refrain from joining, and at best discussion must be far from free unless the proceedings of the Association were kept secret. Finally, it was realized that a main essential to the success of the organization lay in harmony and united action on the part of the men who composed it. Under the most favorable circumstances this would be difficult to maintain in a body where such diverse and indeed conflicting interests were represented. It was deemed wise, therefore, to check so far as possible the disintegrating influences that might be brought to bear from without, by concealing the names of the members as well as the plans of the directors.

Both sides being thus drawn up in battle array, it was impossible that the conflict should be long postponed. Indeed, even before the Employers' Association had been effectively organized, coming events had cast their shadows before. Several of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the unions had put forward as their chief demand, not that wages be increased nor that hours be shortened, but that the employers should "unionize" their shops; that is, they should employ no workmen who were not members of a trades union. In the case of one of these unions, the metal polishers, the demand was refused and the men struck. They were followed on May the first by the cooks and waiters, and a few days later there occurred a sympathetic strike of the bakers. The demands of the cooks and waiters were to the effect that all restaurant keepers should pay a rate of wages fixed by the union, that hours should be materially shortened, and that one day a week should be allowed as a holiday. In addition, each employer was required to agree not to hire non-union men, and to expose in his window a card signifying his accession to these demands. There is in San Francisco in proportion to the population a singularly large number of restaurants and eating houses. These differ greatly in size and equipment. Most of them are cheap places where the employer ekes out his profits by laboring along with two or three employees, while some are handsome and elaborate establishments, employing ten times as many men as the small places and representing a large investment of capital. Naturally, the requirements made of the employees, the remuneration they receive and the conditions under which they work likewise vary. The lot of many of them is indeed exceedingly hard — long hours, monotonous and unpleasant work, little holiday and meagre pay. But in the better restaurants the work is cleaner and more regular, the patrons are pleasant to serve, and the wages and "tips" reach from $75 to $130 a month. Now it is very significant that within a few weeks after the strike began a reconciliation had been effected between employers and workmen in nearly all the small and worse equipped places, while the struggle still continued against certain restaurants of the better class where the employees had little to complain of. Attention to this fact discloses the most important, indeed the fundamental purpose of the strike, the real goal of the whole labor movement, the matter that was to become the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

bone of contention between organized labor and the Employers' Association. Reconciliation with the small proprietors was easy because they could readily promise to employ only union men and to display the union card, whilst the large houses were disinclined to enter into such an agreement. In other words, the laborers of San Francisco had begun a campaign to compel an official recognition of the unions by the employers and so far as possible to force them to "unionize" their shops.

The motive for cherishing this plan was thus explained by the Labor Council on May 11th:

> The recognition of the union by the employer to the extent of entering into agreements to employ none but members of the union is absolutely necessary to prevent continual misunderstandings and friction. All that the union means is that all employers in given industries shall pay uniform wages, work their employees certain hours, and hire union men.

The contradiction involved in these two sentences is apparent, for the institution of uniform wages and hours under such diverse conditions as prevail in the San Francisco eating houses must inevitably produce misunderstanding and friction. Nor do the statistics of strikes collected by the United States Commissioner of Labor testify to the prevalence of greater harmony in the strongly organized than in the weakly organized industries. The true motives of the unions, though not so openly expressed, were twofold: first, to enable the laborers by acting as a body to control the employer if at any time they wished either to increase their demands from him or to protect themselves against his aggressions; second, to force all workers into the union by shutting them out from positions so long as they should decline to become members, and thus to prevent them from lowering wages by "cut throat" competition. Evidently it was necessary, if the union was to accomplish the first of these objects, that it should have in each shop a representative empowered to inquire into and pronounce upon the justice of all disputes between employer and workman, and especially to regulate the engagement of new men and the discharge of old

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ones. The privilege of doing this was consequently involved in the demand for the "unionizing" of the restaurants.

No sooner was this policy of the Labor Council divulged through the demands of the strikers than the employers realized that it would be the crucial issue of the campaign. Questions of hours and wages, it was said, may be arbitrated or arranged by conference; but the right to employ and discharge whom he would the employer was determined at all hazards to maintain. In justifying their position the employers asserted that the unions in San Francisco are organizations which it is very difficult to hold responsible; their membership, as a rule, is variable; they hold little or no property; and in the event of a breach of contract on their part it is practically impossible to get redress. Furthermore, it was pointed out that the unions, in order to hold their members, had constantly to manifest their usefulness to the workingmen, — a condition which tempted the leaders to continual aggressions on the employers; for it was chiefly in higher wages and shorter hours that the laborers saw their interests. Again, it was said that the control demanded by the unions over the hiring and discharge of workmen and the methods that must be adopted to make that control effective, would not only be irksome, but would seriously impair the employer's freedom in conducting his business. And, lastly, the employers vehemently objected to being used as a cat's-paw by the union leaders to bring the recalcitrant workmen under their domination.

A week after the strike of the cooks and waiters began, the carriage and wagon makers presented similar demands to their employers and with a similar result. The employers next day issued a signed statement to the effect that they did not object to the wages and hours asked for by their workmen, but that they could not accede to the demand that only union men be employed. This increased the number of strikers in the city to about two thousand. The struggle in these industries dragged along without material gain on either side until May 21, when previous events were thrown into the shade and the gravity of the situation was vastly increased by the strike of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

machinists and the sympathizing workmen engaged in the other branches of the iron trades — altogether about seven thousand men. This action, it is true, was not primarily connected with the movement inaugurated by the Labor Council; yet the plan of the council to "unionize" the shops was involved in the machinists' demands, and the addition of so many thousands to the number of men who were ready to lay down their work in support of this plan gave great moral support to the strikers, while it increased the anxiety of employers in all other trades.

Many of the men in the iron trades, however, deprecated the policy of the Labor Council as likely to prejudice their cause. *Organized Labor*, commenting on the situation, said:

> Of all who have cause for complaint there is none who can more justly call down the wrath of heaven on the heads of the two men who manipulate the underground wires in the Labor Council than can the machinists and the men engaged in the iron trades. They prepared for their strike for years; gave their employers six months' notice, extended the time for twenty days; and when the time arrived they found their road to success blocked by strikes of the Cooks and Waiters and men from different other callings who had not been organized a year. . . . We believe yet that the machinists will win . . . but if they lose their strike they can thank organizer Pierce for it, whose grandest achievement in San Francisco has been the formation of the Employers' Association.

So great was the agitation in the city over the sudden stop thus put to the iron industry, that attention was diverted from the settlement reached two days later by the carriage and wagon makers. In this the employers justly claimed a victory, for the wages and hours agreed upon had been conceded before the strike began, while recognition of the union was waived by the returning workmen.

A much more serious engagement was fought early in June. Some months earlier the journeymen butchers had drawn up a scale of wages and hours, and the retail meat dealers agreed to adopt it on condition that the journeymen would not require them to display in their windows the union card. To this

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

condition the journeymen acceded. But some of the retailers, hoping to increase their custom among the working people, voluntarily displayed the card in token that their shops were "unionized"; whereupon it is said that fifty thousand facsimiles of the card were distributed broadcast by the journeymen, and people were advised to help the laborers by purchasing only where the original was displayed. Whether this accusation be true or not, at any rate trade was diverted to the "unionized" shops, and the proprietors of the others lost custom. To suppress such "unfair" competition the aggrieved merchants appealed to the wholesale butchers for assistance. The wholesalers, hearkening to their petition, ordered, under penalty of a refusal of supplies, that all the cards should be taken down; whereupon the journeymen retorted by ordering all the shops to display them. The retailers now found themselves in evil case indeed: if they displayed the card they got no meat to sell; if they suppressed it they got no men to work. Under these circumstances most of them obeyed the wholesalers without hesitation, though a few held out for several days, hoping to discover a source of supplies outside of the city and not unwilling to extend their custom among the working people by such a conspicuous stand in their favor. In less than a week, however, the laborers surrendered. The cause of their defeat was twofold. In the first place, their work required no great technical skill and newcomers from the country might be quickly trained to take their places. In the second place, their union was weakly organized and proved totally unable to control the members. Of the eighteen hundred men that belonged to it only eleven hundred had obeyed the order to lay down their tools, and all of these except one hundred and fifty returned to work before the strike was declared ended.

For a month after this there were no important developments. With excursions and alarums each party had taken position and proclaimed defiance, and the light-armed battalions had met in preliminary passages at arms. There was then a wait to discover the most vulnerable point of attack, each side hoping that some incautious move of the other would afford

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a strategic advantage in the conflict to follow. But the early skirmishes were not entirely without result. In all of them the unions had had the worst of it, and the moral effect of this upon the laborers was great. With one exception, however, all the engagements that had thus far taken place had been on a small scale. The exception was the strike of the iron workers, and in this case, though the shops had already secured enough outsiders to do the urgent work of the port, the men were still hopeful and determined, and, obedient to their national leaders, stood firm as a stone wall. To the labor leaders this attitude was the most cheering feature of the situation. Some additional consolation was found in the fact that all the unions which had suffered defeat were new, inexperienced and loosely organized. It was only a skirmish line of new recruits that had been routed; once let the disciplined host of veterans come into action and the tide of battle would be turned. The prestige of "unionism," however, had suffered. From the over-confidence that had marked the early stages of the movement, there had been a reaction; the new members were beginning to distrust the fair promises of the organizers, and evinced a tremulous fear that the powerful and mysterious Employers' Association had doomed the unions to annihilation. Evidently something must be done to save the situation. Organized labor must show its power. Enough of the disciplined unions must be called out to paralyze the business of the city until the employers should come to terms. The Employers' Association, at the same time, was equally anxious for a decisive conflict. The insecurity of the situation, the vague feeling of uneasiness, the nervous tension of men facing a dubious prospect were more intolerable and exasperating than open hostilities could be. Both sides, therefore, were determined to precipitate a struggle as soon as it could be done without sacrificing any strategic advantage. Under these circumstances the opportunity could not long be delayed. It was afforded by the arrival in the city of the Epworth League, and the struggle was begun by the Brotherhood of Teamsters, one of the most powerful labor organizations in the city.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In September, 1900, the Brotherhood had concluded an agreement with the Draymen's Association, by the terms of which the members of the Association were to employ no teamsters that did not belong to the Brotherhood, whilst the members of the Brotherhood in turn were to work only for the firms that composed the Association. According to the published statements of both sides, this agreement was far from bringing harmony, and the following months were filled with wrangling and disputes. The train was already laid, therefore, for an explosion. Now there is in the city a certain special delivery company, the manager of which has a brother who is an employing drayman and belongs to the Draymen's Association. It was this special delivery company that secured the contract to handle the baggage of the visitors attending the meeting of the Epworth League. The manager of the company, as had been his wont for many years, when he found himself unable to do the work punctually, called upon his brother for assistance. The union officials, however, refused to allow the teamsters to haul the baggage. They said that the special delivery company was not a member of the Draymen's Association, and therefore, by the terms of their agreement, the men could do no work for it. To this it was replied that in hauling the baggage the men would still be working for their present employer, for it was his teams they would use, it was from him they would take orders and receive their wages, and it was to him, and not to the special delivery company, that the profits from their labor would accrue. To the men this seemed a mere splitting of hairs: if the special delivery company had the contract to handle the baggage, whoever hauled it would really be working for that company. But this, the employers urged, was an entirely new and unjust view for the teamsters to take; for many years this company had had work done through members of the Association, and even now the teamsters did not refuse to haul for it anything except this baggage; such inconsistency was hard to understand and could not be tolerated. Furthermore, if the refusal was really based on the agreement with the Association, surely in such a case the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

teamsters should not feel bound by it if the employers were unwilling to hold them to it. The Brotherhood, however, denied the logic of this reasoning and persisted in its refusal; whereupon the draymen discharged all the union teamsters and set about finding new men to take their places.

There is perhaps no labor union in the city whose idleness would have been more seriously and widely felt than that of the teamsters. All branches of industry are singularly dependent on the drayage companies in San Francisco for the reason that few of the docks have railroad facilities. For the fruit merchants, moreover, and others that deal in perishable goods it was the busiest season of the year; to them a cessation of traffic meant ruin. Many firms, it is true, employed their own drivers, and were therefore in no way involved in the dispute of the Brotherhood with the Draymen's Association. Even these drivers, however, after a few days were called out by the union officials, so that the business of the city was threatened with complete paralysis. Under the circumstances all men knew that there could be no dallying. In this case the "waiting game" that was being played in the metal trades was impossible; the business men could not afford to suspend operations till the Brotherhood was starved into submission. Naturally, the teamsters felt that they were masters of the situation and believed that many interests would unite in bringing pressure to bear upon the draymen. The Employers' Association, however, to which the draymen resigned the management of the affair, refused even for a moment to consider the question of surrender. On the contrary, every effort was put forth to supply as rapidly as possible the places vacated by the members of the Brotherhood. Some employers themselves mounted the box and drove their own teams. Many succeeded in hiring discharged army teamsters who had recently returned from the Philippines. A large number of men also, tempted by special inducements, came in from the country, especially from the fruit districts, where the producers were vitally interested in having the traffic of the city restored to its normal condition. But the new men, for the most part, were inexperienced; there were frequent blocks

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and collisions; the wagons were often stalled or upset; and the freight was moved slowly and with great difficulty. Industry soon showed the effects of such inadequate work. The five big box factories of the city were obliged to close down and discharge their workmen. The porters and packers of many firms were turned off because they refused to help non-union drivers load the wagons. All the union beer bottlers were locked out because their officials forbade them to work for employers whose beer was hauled from the dock by non-union drivers. The California Wine Association discharged its coopers, saying there was no work for them as long as teamsters could not be found to haul barrels. The furniture dealers, hardware merchants, indeed all the larger retail houses were greatly hampered by the difficulty of delivering goods to their customers. As the days passed, however, it became evident that the teamsters were the weaker party. The employers were determined to prove themselves once for all masters of the situation, and the powerful and secret association they had formed held all waverers sternly in line and turned a deaf ear to proposals of conciliation. Each day brought in scores of new men from the country, and though at first inexperienced, their duties were easy to learn and they readily acquired sufficient skill to perform them satisfactorily. The situation was growing acute, and the teamsters began to show signs of desperation. Hitherto disturbances of the peace had been conspicuously rare, and on each side there had been nothing but expressions of good will toward individuals on the other. But now violence began to assert itself. The hoots and jeers with which the crowds and idlers had assailed the new drivers began to give way to stone throwing and fisticuffs. There were serious affrays, and the newcomers, terrified, ceased to seek the places of the locked-out teamsters. In this emergency the employers called on the police department and secured a special officer to accompany and protect each non-union driver. It was hoped that this stroke would break the back of union opposition, and that the teamsters must return to work on the employers' terms or see their places filled by new men.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Labor Council realized the gravity of the situation. The leaders were convinced that now indeed "the fight was on to a finish"; and it could not be doubted what that finish would be if the teamsters were left to their own unaided efforts. The long sought opportunity to display the power of organized labor was now at hand; the issue was found, the fight was begun. It was decided to support the teamsters with all the power that the council could bring into play, and accordingly, on July 30, the fourteen unions composing the City Front Federation, with an estimated membership of sixteen thousand men, declared a strike to last until the Draymen's Association should reinstate their locked-out drivers. This move likewise involved the idleness of the teamsters, the longshoremen, porters, *etc.*, at Oakland across the bay and at Port Costa, the main shipping point for agricultural produce.

It was believed that the Employers' Association would now find itself checkmated. "The trouble cannot last longer than a fortnight," said the organizer of the American Federation, "for something will have to give way." The secretary of the Labor Council, a man of singular skill and long experience in the management of such affairs, is reported to have expressed the opinion that "the whole thing could not have been better" for the unions. The president of the Labor Council said: "We have waited a long time to get things where we could have such an issue as has been made for us. . . . We have things just where we want them."

The next day the shipping in the harbor was almost completely tied up; the vessels were deserted by their sailors and firemen and could neither take on nor discharge cargoes. There was no activity about the wharfs; the street traffic was again almost entirely suspended, and it was estimated that at least sixty per cent of the business of the city was at a standstill. The crowds of strikers along the city front were large and menacing, and in the police department there reigned great anxiety; no man could tell what a few hours would bring forth, and all the riot guns and pistols were brought out, cleaned and oiled. To the credit of the laborers be it said, however, that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

this phase of the strike began with the utmost quiet and good order. The attacks on non-union drivers were, indeed, not entirely suspended, but for several days they were less violent and less numerous than they had been before the City Front Federation entered the conflict.

Numerous and strenuous efforts to effect a reconciliation had already been made both by individuals and by organizations. But the men active in this work had found it impossible to induce the Employers' Association even to consider their proposals. To the labor leaders there had been ready access and the terms of settlement had been freely discussed with them. But the Employers' Association could be approached only through its attorney, and the invariable reply he returned to all suggestions was that the employers saw nothing to confer about, that nothing was demanded which they could even consider. There was no question of wages or hours involved in the union demands; the only point at issue was whether the employer should manage his own affairs or surrender control of them to his workmen. Such a surrender would be involved in an agreement to employ none but union men, and this matter, therefore, the Employers' Association was determined not to concede, to compromise or to arbitrate. When the City Front Federation struck, however, the mayor of the city, undeterred by the cold reception accorded all previous attempts at mediation, requested from each side a statement of its position with a view to reconciling differences. The replies he received clearly set forth the nature of the trouble.

The unions submitted to him the form of an agreement which he was empowered to propose to the Employers' Association. It was to the effect that the Association should concede the right of the laborers to organize, that it should not discriminate against an employer who chose to hire only union men, nor against a workman who belonged to a union, and that all employees who had lost their places on account of the present trouble should be reinstated. Moreover, when any future trouble arose, there should be no strike or lockout till both parties had exhausted all means to settle it peacefully. If

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Association agreed to this, the labor unions in their turn would promise that the workmen would obey all orders of their employers relating to the work they were hired to perform. The employers on their side replied through their attorney that they did not believe the proposed agreement could be maintained and adequately enforced by the unions. They added, however, that they were willing to recommend that employers should fill all vacancies in their shops without asking whether the applicant belonged to a union or not, on condition that the employee should obey all lawful orders, that he should not try to compel his fellow-workmen to join a union nor his employer to hire only union men, and that he should promise not to engage in nor support a sympathetic strike or boycott. To this the attorney added a note setting forth the position of the Employers' Association toward labor unions: first, the Association recognizes the right of laborers to organize in order to ameliorate their condition; second, it has not discriminated against union men nor will it do so; third, it has not discriminated against an employer hiring only union men nor will it do so; fourth, when differences arise they must be left to be settled by the employer and his own workmen without interference from the officers or members of the labor unions. The Federation promptly rejected these terms of the Association. It was urged that a promise to recognize the right of laborers to organize and yet deny the right of the officers and union members to mediate when trouble arose, was merely "indulging the laborers in an abstraction." The *Coast Seamen's Journal* asserted that "the statement that the Association does not interfere with the right of employees to belong to a labor organization is a lie." The chief spokesman of the Labor Council considered the reply of the Association as "full of premeditated insults and deliberate falsehoods."

After this no serious consideration seems to have been given by either party to the conciliatory proposals of outsiders. A number of citizens, cherishing public-spirited but somewhat Quixotic intentions, continued to urge upon the leaders their opinions of how the struggle might be ended, but though they

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

were sometimes listened to with polite toleration, they were as often rebuffed without even being heard. Eventually the Employers' Association absolutely declined to consider any propositions coming from disinterested parties, and through its attorney requested that no further negotiations or mediation be offered by any one. By such severity it undoubtedly injured its cause in the eyes of the public. It was widely believed that if a conference could be arranged between the executive committee and the labor leaders a settlement would not be difficult. Its stern reserve gave color to the complaints of the workmen that the employers were intolerant, arrogant and tyrannical. When the Board of Supervisors met, a special committee was appointed to investigate the situation and recommend measures for ending the trouble. The committee wrote to the Employers' Association and urged that a conference be held. "We do not ask you to pledge yourselves in any way, merely to meet the men and hear their side. We believe that public sentiment is crystallizing against your organization and we point to that to convince you that your course is wrong." The Association replied: "The principle involved in this strike may be surrendered but it cannot be compromised, and a surrender of it would be the beginning of the end of San Francisco's industrial welfare." Such being the issue, "a conference would be entirely futile and barren of results. It could only inspire in the strikers delusive hopes of a settlement on their terms, and thus lead them to prolong the struggle. We approve of conferences between individual employers and their own employees as the only legitimate way to settle differences."

It would be tedious to describe in detail the struggle that followed. It soon became apparent that predictions of an early end of the strike would be falsified. Many of the men, therefore, left the city and sought work elsewhere at whatever wages they could get. This displaced the agricultural laborers, who began to make their way to the city and take the positions vacated by the strikers. This movement the employers naturally exerted themselves to encourage. Agents were sent to the country to hunt up able-bodied men, and advertisements

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

were inserted in the papers of inland and eastern cities, offering special inducements to experienced workmen. The recruiting process, however, was very slow. Even in normal times labor is scarce and dear in California, especially in summer, while distance renders it almost impossible to draw upon the supply that otherwise might be available in the Middle West. The Labor Council, moreover, put forth every effort to keep men away. Circulars were distributed broadcast through the country, explaining the situation and requesting laborers not to come to San Francisco. Groups of workmen arriving by rail were met hours before they reached their destination by determined men who were willing to use extreme measures to turn them from their course. Several times, when persuasion failed, there were serious affrays on the trains or at the ferry building, with the result that the stream of newcomers flowed in a slow and most uncertain current.

Meantime the farmers were beginning to feel acutely the disastrous effects of the strike. Owing to the dry summers in California little preparation is made to protect the harvested wheat from the rains. The greater part of the crop after it has been sacked is sent to the huge warehouses at Port Costa, and as rapidly as possible transferred from there to shipboard. But as the strike had extended to Port Costa, enough men could not be secured to load the ships there, so that the warehouses became congested and much of the wheat could not be housed. The employers claimed that plenty of laborers might be had were it not that the strikers terrorized them and by threats of violence prevented them from working. On that ground the State Board of Trade wrote to the governor, explaining the situation and stating that, if the workmen were protected, the grain crop could be readily handled. The governor treated this as an application that the militia be called out, which he considered the demand of a faction based upon statements that could not be verified. Thereupon a convention of farmers, meeting at Sacramento, appointed a committee to investigate the situation and to suggest the proper measures for the wheat growers to take. This committee

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

visited Port Costa and interviewed the leaders on each side both there and in the city. It then reported that violence and intimidation alone kept laborers from going to work, and recommended that armed men be sent by the farmers to maintain the peace and thus prevent great loss. "We believe," said the committee, "that the position taken and maintained by the Employers' Association is reasonable and justifiable. . . . The demands of the strikers are so unreasonable that they cannot and will not be acceded to."

In the city, as the weeks passed by, it grew more and more evident that the strikers were losing ground. The managers of the great shops in the iron industry had provided against trouble by inserting a "strike clause" in all their contracts, and therefore could afford to wait. By the enforced idleness they might indeed be losing profits, but, as they explained with whimsical stoicism, they might also be avoiding losses. Slowly and unsteadily, but none the less surely, the employers in other branches were recruiting their forces of workmen from without, so that by the 20th of September the water front presented a normal picture of busy industry. The labor leaders claimed that there was much stage thunder in the comings and goings of the wagons, in the noisy bustle and the perspiring activity about the wharfs; and indeed it is likely that these things were exaggerated somewhat by the employers for the purpose of discouraging the strikers. But for all that, the plethora of the warehouses was relieved, the clearances of vessels increased, the supply of coal was fairly sufficient and goods were delivered about the city without great delay.

In the meantime the unions were discussing another means of accomplishing their ends. As early as the middle of August it was freely said amongst the working people that it was through the suffrage that the laborer should hope to secure his rights. "If the strike lasts long," said a prominent unionist, "the men will take part in politics and work changes in the city government." The secretary of the machinists' union affirmed that already the movement was being thoroughly organized and that there would certainly be a labor ticket in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the municipal campaign. "This is just the beginning," he continued, "for we are determined that the workingmen shall run this government." How successfully in the following autumn this movement was carried out is now known all over the United States.

Doubtful prospects of future political triumphs, however, could ill console the men who saw their places taken under their very noses by "scabs" that seemed to creep out of the highways and hedges and sneaked into the city in spite of the pickets, outposts and vigilance of the unions. Assaults upon non-union laborers, therefore, became increasingly frequent and violent. The majority of the strikers no doubt heartily deprecated such actions, and the leaders urged the men to maintain peace and good order, warning them repeatedly that nothing could so weaken their cause as violence. But unruly spirits were not always to be held in check, and the disorder was increased by ruffians and desperadoes that took advantage of the prevailing conditions to ply their trade of robbery and pillage. In the numerous affrays that occurred some lives were lost, and many men were crippled and rendered incompetent for life. The police force was greatly increased, and many of the employers hired guards and private detectives for protection. When the officers were removed from the drays and wagons by reason of the increasing need for their services on the streets, the draymen employed discharged soldiers to take their places and had them sworn in as special officers. The laborers complained that it was gross injustice that the police should be used for the especial protection of the employers and should display their activity in supressing the union pickets and clearing the strikers from the streets. Their hostility to the authorities was kindled to fury by the wordy eloquence of a certain Roman Catholic priest, who affirmed that it was not the rich but the laborers who paid the taxes, and that it was, therefore, a "crying shame" that the policemen should be turned out as "guardian angels" of the employers. "If when this strike began," he asserted, "the government of this city had acted in justice, and had not thrown its power against the strikers, the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

strike would have been settled long ago." Such expressions seemed to justify the practices of the more turbulent element among the idle men, and bloodshed, burglary and lawlessness in all its forms threatened to pass out of the control of the labor leaders and police officers alike. The climax was reached on the night of September 28, when a small body of special officers, afterwards aided by the regular police, was attacked by an armed mob on the chief business street of the city. A pitched battle ensued, and a number of the participants were shot before the mob was routed by the arrival of reinforcements to the other side. After this the nervous anxiety developed into a veritable reign of terror. The Employers' Association started a fund of $200,000 to enable the police commission to increase the force. Houses were barricaded and old weapons that had long done service as ornaments or heirlooms were polished up and made ready for action. Men stayed at home by night and walked the streets heavily armed by day. Demands for the military became loud and clamorous, and wild and foolish talk of a plan among the strikers to sack the city rendered the timid almost speechless with fear.

By this time, however, all signs except the bold bearing of the union leaders indicated to unprejudiced eyes that the struggle was nearing its end, and that the strike had failed. The savings accumulated by the unionists during the years of prosperity were insufficient for a further continuance of idleness, and appeals for aid had long since been found necessary. In Oakland the sympathetic strike had been declared off and the men were again at work. At Port Costa the energy of the farmers was replacing the strikers with a complete force of new men. Even in the city the multitude of policemen and the anxiety of property owners were almost the only visible signs that the strike was still in progress.

On the 2d of October the governor of the state suddenly appeared in the city, saying he had been invited by those most interested to do what he could to bring the struggle to an end. He sent quietly and requested the president, manager and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

executive council of the Draymen's Association to meet him for a conference. On their arrival they found with him the leaders of the Brotherhood of Teamsters and of the City Front Federation; the governor contrived that they should all be closeted together, and the result was that in less than an hour the terms of settlement between the Brotherhood of Teamsters and the Draymen's Association had been arranged. The next day the strike was declared at an end, the men applied for their former positions, the special policemen were discharged and without a trace of friction quiet was restored.

The terms of settlement were never given to the public, but all the available evidence goes to show that the real purpose of the labor movement was not accomplished. The employers claimed that their victory was complete and unconditional. The labor leaders asserted with equal emphasis that the matter at issue was compromised. A study of the subsequent situation, however, fails to show that the unions gained anything that was not conceded in the ultimatum published by the Employers' Association when first the City Front Federation ceased to work. The underlying motive of the men who planned the campaign had been, as we have seen, the desire to have all shops "unionized" — to exclude from employment all non-union men. Their power to accomplish this had been brought to the crucial test when the teamsters opened hostilities against the special delivery company. Instead, however, of succeeding in this test case, they saw the way open at the end of the strike to the employment of non-union drivers even where they had been previously excluded. For those of the "scab" teamsters that wished to remain were not discharged when the strikers returned to their employers, and the members of the Brotherhood found themselves obliged to work side by side with non-union men.

The cause of the failure is sufficiently obvious. It lay in the fact that the unions did not control a large enough proportion of the available labor force effectively to scotch the wheels of industry. If the hauling and other work done by the City Front Federation had really ceased for a considerable time, the employers must inevitably have been beaten; for this work was

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

absolutely necessary to the welfare and even to the existence of the whole community. When they struck, the unions believed that the work would cease. Their control over the men at that time engaged in the performance of it seems to have been absolute. But they underestimated the potential labor supply over which they had no control whatever. It is true that in the state as a whole the labor supply is scanty, but it is singularly intelligent and adaptable, and is readily transferred therefore to the section and into the occupation where demand is strongest. Unfortunately for their plans, the work of those unions whose labor was indispensable required no high degree of skill and newcomers were rapidly broken in to perform it, while in the case of the machinists and other technical trades the employers were in a position to wait indefinitely.

As to the merits of the point really at issue, — the exclusion of non-union laborers from employment, — men are now and probably always will be disagreed. If labor organizations are to be effective, it would seem, to judge from the movement we have described, that they must embrace practically the whole labor supply; and yet compulsory membership is certainly opposed to the spirit of American institutions, while the demand that employers should assist in exercising this compulsion by refusing employment to non-union workmen seems utterly exorbitant.

In conclusion it may be remarked that nowhere is the divergence of opinions on this matter more noticeable than in the decisions of the courts. In Great Britain the justice of a threat to strike rather than work with non-union men was upheld in 1898 in a very memorable case by the House of Lords, the highest judicial authority of the realm. The authority of this precedent was specifically denied in 1899 by the Supreme Court of Massachusetts, and the doctrine it embodies has been repudiated in a large majority of the cases decided in American courts. The British decision has been quoted with approval, however, and several times followed by the Supreme Court of New York, while the principle has been consistently maintained by the highest courts of Indiana and New Jersey.

University of Texas. Thomas Walker Page.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

REVIEWS.

Commonwealth or Empire. By GOLDWIN SMITH, D.C.L. New York, The Macmillan Company, 1902. — 82 pp.

Imperium et Libertas. By BERNARD HOLLAND. London, Edward Arnold; New York, Longmans, Green & Co., 1901. — 379 pp.

Commonwealth or Empire is a "bystander's view" of the panorama presented by the current politics of the United States. Those who are acquainted with the point of view of the ungentle and valiant Bystander will know in advance about what he sees in these distracting, and in many respects disquieting, phenomena. The essay is a monotone of dark foreboding, without malice of purpose, of course, but also without charity of expression. Everything is pretty much in the shadow. A very optimistic reader, with a little more light in his own eye, is likely to question whether something of the blackness of the picture is not due to dimness of sight. The writer himself says in explanation that "the sun of humanity is behind a cloud," but that "the cloud will pass away and the sun will shine again." When? "The aged will not live to see it but the younger will." The prophecy is to this extent hopeful.

The other book which has been assigned with this for notice is of agreeable service in clearing, even now, something of the murkiness; for though Mr. Holland does not discuss our present politics at all in his *Imperium et Libertas*, the light of his historical research brings the background up into distinctness and gives a different value and aspect to some of the features of the foreground. "Imperium" in this light does not have the savage, hideous expression which it seems, in the duskiness of Professor Smith's generalizations and his massing of unfavorable historical experiences, to have; instead of seeking to throttle "Libertas," "Imperium" is seen to have its hand, not at the neck, but under the arm of the supposed victim.

The Emeritus Professor has an unveiled sneer for those who make "Duty take the hand of Destiny," when that destiny becomes amphibious in its disposition and habits; but he does not forswear belief in predestination. In his first paragraph he asks whether the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

American public is "to follow its own destiny" (a destiny which only the Great Author of the United States, without quotation marks, can know and which Professor Smith must assume to be identical with the destiny of his own election) or is to abandon that destiny and "slide into an imitation of European imperialism,"—a fate which is but "the shadow of its own rapacity."

The incidents of the rough-hewn beginning of this destiny, whatever its goal, Mr. Holland's book rehearses in a very orderly and persuasive manner. We are reminded that our independence was not of long seeking or conspiring; that as late as 1774 Franklin, Adams, Jay, Jefferson, Otis and even Washington, whom the author characterizes as "a gentleman of honour and veracity," averred that there was no desire for separation from the Empire. Against mere "imperium" there was no protest; indeed, Thomas Paine said that when he first arrived in America in 1774, he found an "obstinate attachment" to Britain. "By our own [England's] proceedings," says Mr. Holland, "due to the non-existence as yet of the true idea of relations between colonies and the metropolis, loyal subjects of the crown were transformed into open and successful rebels." There is some good reason for the opinion that if the "imperium" of England in America had been of the sort since developed, the sort employed in Canada and Australia, there would have been no rebellion, no separation of the "Thirteen Colonies" from the Mother Country. It was ignorance, misunderstanding, indifference and pride which produced the conditions which suddenly compelled opposition and resulted in independence. "You have leave to set me down for everything wicked," Washington is quoted to have remarked to a clergyman on the Potomac fourteen months before the Declaration of Independence, "if you ever hear of my joining in any such measures" as would lead to complete separation from England. The author of the Declaration of Independence thought the one orthodox and tenable relation between Great Britain and the colonies to be "exactly the same as that of England to Scotland after the accession of James II until after the Union, and the same as her present relation with Hanover, having the same executive chief (king) but no other necessary political connection," which is in effect much the present relationship of England to her self-governing colonies. All of which reminds us that the patriots who framed and supported the Declaration which we hold sacrosanct were not anti-imperialists until they were forced to be by the stupid and to us fortunate, perhaps, abuse of "imperium."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is the problem of fixing the boundaries between the imperial power and national liberty, to which Mr. Holland's work is addressed. The frontiers between royal power and that of the body of the nation and those between the power of the state and individual liberty, have been surveyed and resurveyed, with the result that the liberty of the man and of the man as a citizen is approximately fixed. Doubtless the New Zealander under the "imperium" of Great Britain and the rule of his own state, has as great "libertas" as a citizen of the United States. England's most important political question now is, and has been for one hundred and fifty years, so to coördinate the advantages of imperial unity with those of national liberty as to secure greater benefits than could result either from complete unity alone or from independence alone. It is impossible here to follow, even in the barest outline, the different courses of policy adopted by England in the pursuit of this object. Mr. Holland has in very interesting, lucid and picturesque narrative traced those courses. He discusses first of all the "American Revolution," and presents the varied, conflicting and often changeable doctrines, motives, passions and forces which had issue on the one side in the birth of the American Republic, and on the other in the "rise of those principles upon which now stands the British Colonial Empire." I have already quoted his opinion as to the cause of the separation. It is indicative of his philosophic temper that he shames the "shallowness of blaming too much individual statesmen or parties" and holds that "men seem to be but instruments of that power known to some as Destiny, to others as the Will of God."

From the American Revolution he follows "the line of history which connects the colonial affairs of the eighteenth century with the modern empire," *viz.*, the history of Canada, and here observes two great solutions as they are slowly worked out: "(1) How self-government, so far as it relates to internal affairs, as full and as free as that existing in Great Britain, could be granted to colonies without severance of the bond uniting them to the Empire, and (2) how populations too much divided by race or extent of territory to manage all their affairs in a single legislative assembly, could be combined in a federal bond for certain common purposes while leaving sufficient autonomy to the several provinces." It is a most readable, even fascinating story, of complex plot, dramatic incident and happy dénouement — Canada issuing a "loyal and free nation amid the nations of the Empire; Quebec a loyal and free province amid the provinces of the Dominion."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Irish problem has not worked itself out into so happy a solution, and the author is clear only in his conviction as to the unsatisfactoriness of the present relationship between England and Ireland. His only suggestion is that, as certain other plans are not feasible, it is "worth while for reasonable men to consider whether the Canadian precedent" (that is, of the relationship between provinces and the Dominion, not between Canada and Great Britain) "does not best meet the necessities or possibilities of the case." Under such a plan, provincial or sub-national matters would be referred to the legislative assemblies to be created for England, Scotland, Ireland and perhaps Wales. This would relieve the Great Parliament of a large mass of petty and provincial business and allow it to give more serious and considerate attention to matters of general or imperial import. It would at the same time delegate to the intelligent and more deliberate discussion of bodies most familiar with them, matters of only local scope. As it is now, the House of Commons may have to deal in one afternoon with questions ranging from "the grievances of an old woman in a workhouse in County Galway to the designs of Russia in the far East."

In his final résumé of the Empire, Mr. Holland begins the drawing of the usual parallel lines to represent the resemblance between the British and the Roman Empire, and he hints that to some historical mathematician a thousand years hence they may still seem parallel, — the history of Rome may seem in its "larger outlines" to be "repeated in that of England." In his introduction, however, he admits with seeming approval the opinions of modern historians that the "Roman Empire perished not from over-greatness but from over-centralization, and the destruction of the provinces in favor of the metropolis." Here certainly is no parallel, for England's colonial policy has unmistakably been one of decentralization, a gradual sacrifice of "imperium." The dissolution of the Empire, he points out, would undoubtedly result in the decay and decline of England, and its consolidation into a closer unity would involve the merging of England in the Empire. Here we have the suggestion of the continued parallelism on into the shadowy distance of decline and fall; in the one case, an old age enfeebled from the effort of giving life to so many new states, no longer self-contained or self-supporting; in the other, a once dominant personality subordinated to a common "imperium" and coördinated with states now designated as colonies. This fate the author averts with the hazard of a conjecture, "based upon the tendency of history in the past and upon the actual state of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

things in the present," — a surmise that there "will not be a parliament of the Empire in the sense in which the assembly at Westminster is the Parliament of the United Kingdom, nor a body invested with sovereign powers of legislation and taxation, but an Imperial Council acting as an intermediary between the great officers of state and each part of the Empire"; and with this "a rise in the importance of the throne" which is "not merely the symbol but the real bond of unity," — a "real Presence which makes itself felt throughout the world," a "central point" to which "all lines converge from all the ends of the earth."

But when one turns from Mr. Holland's lengthy discussion of "imperium" back to Professor Smith's brief consideration of "empire," one is informed that the relationship between England and her colonies of kindred blood is not "imperial" at all. "British Empire is a fallacious term." And certainly if it is empire as we have been wont to account it in theory and terminology, it does not answer Professor Smith's description of that institution. "Empire is," he says, "the result of conquest" — a conquest which is "the appetite of the savage man who preys upon his fellows as a tiger preys upon the herd." The so-called self-governing colonies of Great Britain, "which possess together one-fifth of the trade, contribute less than one-hundredth of the cost of protecting the trade. Ninety-eight-hundredths are paid by the taxpayers of the United Kingdom." This assuredly does not connote "the appetite of a savage" in England, and if Professor Smith's definition is accurate concerning the nature of empire, England's Empire is no empire. It does not seem quite fair to rob this much-abused word of what fair fame it might have from such seeming self-denial as England has shown toward her colonies. However, if we accept this definition — and according to Sir John Seeley's interpretation of the acquisition of India, the use of the term "empire" would be barred even there — we may question whether the imputation of imperialism to us is not also fallacious. The possession or trusteeship of whatever of sovereignty or suzerainty we have attained unto can hardly be with fairness ascribed to so inhuman a motive. I am far from admitting that the vengeful was the dominant cause of intervention in Cuba, and as for the West's voting for a "policy of aggrandizement and war" out of its "vehemence of character," my impression from the inside of the West is that while there was this vehemence, it was asserted rather in support of what was believed to be a policy of beneficence and ultimate peace. But all this is a matter of opinion. The best

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

evidence of motive is perhaps the use to which the opportunity has been put, though of course we do not ever live quite up to our best intentions.

Professor Smith brings three charges. They lie against Plutocracy, Militarism and Imperialism, though the title carries the name of but one of these. They are made to conspire in the congeniality of Imperialism and Militarism to Plutocracy. There is no proof that the last named was accessory to an imperialistic policy, though it finds such a policy helpful to its growth. It has, however, enough natural sins of its own, he contends, seriously to menace our democracy, even to the "furtive extinction of popular government without the change of constitutional forms," in illustration of which read the example and warning of Florence.

"But America is also struck by the sudden gust of Militarism and Imperialism which threatens to reverse the progress made by reason, economical government and international morality during the last half-century." "A satiety of civilization" seems to have come over us, a "hankering for a return of robust barbarism." And apparently Professor Smith thinks that there is a satiety of our sort of civilization, for he elsewhere intimates that "emulous variety" is most likely to conduce to human progress and to enrich the human store. Imperialism, due to our hankering for robust barbarism, in threatening the destruction of wild stocks of humanity (other hankerings for robust barbarism) may, he reminds us, be killing the "germs of something, which, spontaneously developed, would be as noble and worth as much to humanity as any of the predatory powers themselves."

It is an entangling alliance with conjecture that leads us farther into the maze of doubt. But we must be grateful for the Bystander's well-meant warning. The essay can be read with profit by all discreet persons and with relish by all discerning ones. And there is no one who hopes more heartily than I that even in his age he may see the cloud pass away.

JOHN H. FINLEY.

PRINCETON UNIVERSITY.

Lee at Appomattox, and Other Papers. By CHARLES FRANCIS ADAMS. Boston and New York, Houghton, Mifflin & Co., 1902. — 387 pp.

Mr. Adams's volume contains five papers. Of these the briefest, with one exception, is that to which precedence is given by position and by specific mention. It was read before the American Antiquarian

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Society in October, 1901, while the war in South Africa was still dragging on; and it attracted so much attention at the time, by reason of its recommendation to the Boer generals of the example of General Lee in stemming by surrender, when his cause had become hopeless, the tendency to drift into guerilla warfare, that it is needless now to particularize its contents, with which the public generally is familiar.

A companion in brevity to the first essay is the third, on the British "change of heart" toward the United States, — a subject which it treats philosophically, but with a dash of personal observation and experience that serves to render the paper the equal of any in force and vividness of style as well as in matter for reflection. Certainly no contrast could have been found, in the relations of the two peoples, more marked than the atmosphere in which Mr. Adams first lived and moved in London, during the early days of our Civil War, and that which prevailed when he chanced to attend the memorial services in Westminster Abbey, in September, 1901, on the death of President McKinley.

In a "plea for military history" — the subject of the fifth paper — an effort is made to impress us with the manifold inaccuracies in accounts of battles and campaigns, even in historical works of the better sort. It is not altogether strange that the partisanship of writers has been perhaps more glaringly manifest in this than in any other department of history, since there is none in which the temptation to sacrifice reality to picturesqueness, or to cater to popular prejudices, is greater.

"An Undeveloped Function" is the title of Mr. Adams's fourth paper, in which he suggests that the American Historical Association should assume a more practical relation than heretofore to our national political contests. Finding the standard of our recent political discussions to be lower than it has been at some periods in the past, he ascribes the descent in a measure to the leading part played in our campaigns by journalists and politicians, to whom the historical element involved in public questions is to a great extent unknown. As a corrective he suggests, in a tentative way, that the American Historical Association should so arrange its meetings that one at least should be held in the month of July preceding an election, for the purpose of discussing on academic principles the issues to be decided at the ballot box. The design would be, not to formulate any official conclusion, but to present for the consideration of the public, reasons of a higher type than those dealt with in the press

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and on the stump. That the discussion of pending questions of politics, by a body not unlike the American Historical Association, would not necessarily assume a partisan character nor yet be devoid of benefit, has been shown by the National Civic Federation. The freedom of action of the latter body is, however, much facilitated by its entire independence of governmental aid.

More than half of Mr. Adams's volume is occupied with his paper on the Treaty of Washington, and as a contribution to knowledge it outranks any of its associates, in quantity as well as originality of matter. In some parts of it he has drawn largely upon the unpublished diaries of the late Hamilton Fish, the chief American negotiator of the treaty and the moving spirit in the whole transaction. As a necessary incident of the narrative, he reëxamines the relation of Mr. Sumner to the negotiations, and discusses the vexed question of his removal from the chairmanship of the Senate Committee on Foreign Relations. One point that Mr. Adams brings out with special dramatic force is the favorable if not decisive influence of the quarrel with Mr. Sumner over San Domingo on the settlement with Great Britain, in fixing President Grant's attitude on the latter subject. Mr. Sumner's views and those of President Grant in regard to the terms of settlement with Great Britain seem at one time to have been entirely in accord, and they embraced the withdrawal of Great Britain from Canada. To this condition Mr. Sumner expressed his continued adherence in a memorandum, apparently designed to block negotiations which Mr. Fish was endeavoring to bring about with the British government. At that time the Dominican controversy was at its height. "Hence it follows," says Mr. Adams, "that, when Secretary Fish, with Mr. Sumner's memorandum in his hand, went to the White House for instructions, the President's views as to the independence, and subsequently early annexation, of the British possessions at once underwent a change. As he welcomed an issue with his much-disliked antagonist upon which he felt assured of victory, hemispheric flag-withdrawals ceased to interest him. A great possible obstruction in the path of the proposed negotiation was thus suddenly removed." In the incident thus described we discern very little of the statesmanship by which the destiny of nations is supposed to be guided, but a vast deal of that human nature on which, as it manifests itself in men in responsible positions, the actual course of events depends.

J. B. MOORE.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Rise of Religious Liberty in America. By SANFORD H. COBB. New York, The Macmillan Company, 1902. — 541 pp.

In conception this book is excellent, and it meets a real want. We have sectarian and denominational histories, discussions of the question of a colonial episcopate and a large amount of valuable original material on the history of ecclesiastical relations in the American colonies. But the attempt has never before been made to treat the subject comparatively, to note the relations of the ecclesiastical systems in the various colonies to each other and to trace in connection therewith the progress of religious liberty. The subject belongs almost wholly to the colonial period and the Revolution. With the adoption of the federal constitution and of the first set of state constitutions the American solution of the ecclesiastical question was reached. A brief concluding chapter under the title of "Final Settlements" contains all that the writer has to say concerning adjustments subsequent to the formation of the constitution.

The author classifies his subject under Church of England establishments, Puritan establishments, changing establishments and free colonies. Under the first head he discusses Virginia and the Carolinas; under the second, the New England colonies; under the third, New York, Maryland, New Jersey and Georgia; under the last, Rhode Island, Pennsylvania and Delaware. To the colonial episcopate and the changes which were occasioned by the Revolution, two chapters are devoted. Certain introductory chapters contain a sketchy discussion of what the author is not the first to designate as the Old World idea and the American principle.

By the somewhat obscure designation, "changing establishments," the writer refers to those colonies in which, during the colonial period, some change came about in the relation borne by the government toward one or all of the sects which were represented among the population. But the defect of the author's classification is illustrated by the fact that two of the colonies — New Jersey and Maryland — which he includes under "changing establishments," either never had an establishment or were without one during a long period of their existence. Moreover, from the book as it stands, it is not easy to determine whether progress toward religious liberty was a characteristic of the colonial period. That establishments were swept away during the Revolution is very clear; but whether the tendencies during the previous century and a half were favorable or unfavorable to them, the author does not clearly show. This is to be attributed, however,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not to lack of material or of evidence, but to the author's classification of his subject. He has adopted a politico-legal rather than an historical classification. This may not be a fault, but some interesting phases of the subject would have been thrown into relief if the author had paid greater regard in the large subdivisions of his subject to the order of time.

There are also indications that this book, though in the main well conceived and useful, was somewhat hastily prepared. In some cases the best authorities were not used, or access was not had to original sources of information. In other cases careless use was made of accessible authorities. Had the proof been read with greater care some glaring errors would have been corrected. One is at a loss to explain how the renegade John Lyford, who troubled the settlers of Plymouth in the early days, could have been confounded with Thomas Lechford, the author of *Plain Dealing* (p. 146). It is not true that Lechford's pamphlet abounds in "malicious abuse" of the people at Plymouth. Lechford states that he suffered persecution as an Episcopalian, not in New Plymouth, but in Plymouth, England. We do not know of anything that Lyford wrote, save private letters, some of which Governor Bradford seized. The accumulation of errors in this passage makes it a literary curiosity.

Roger Williams did not refuse to "join" the Boston Church, but he did refuse to supply its pulpit during the absence of the regular pastor (p. 182). The views of Mrs. Hutchinson were not dangerous to the "state" in general, but they probably did involve peril to the civil power as then organized in Massachusetts (p. 194). The latest investigation goes to show that the trouble between Gorton and the inhabitants of Providence grew out of disputes over the use of the town lands (p. 196). The departure of the settlers of Connecticut from Massachusetts was opposed by the great body of the magistrates and clergy, and led to a prolonged struggle in the general court (p. 241). The author draws a sharper distinction between the ecclesiastical policy of Connecticut and that of Massachusetts than the facts will, perhaps, warrant. The colony later known as Rhode Island originated from a confederation of towns, and for this reason the experience of New Haven was not "unique" (p. 285).

Domine Backerus had never desired to settle permanently in New Netherland, and therefore it is not necessary to suppose that he was "crushed" by the order of Stuyvesant to refrain from reading political notices or manifestoes in the pulpit. Moreover, Stuyvesant seems to have given him an oral, not a written, command (p. 312).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The order referred to on the same page as having been issued in 1651, and which provided that judges should be professors of the Reformed religion, appears in a charter which was granted to Wiltwyck (now Kingston) in 1661; it was a local and not a general ordinance. The fact should be noted that, because of the poverty of Wickendom, the Baptist preacher, his fine was remitted by the director and council (p. 317). Domine Niewenhuysen was pastor in New York City, and not in Albany (p. 331). On page 333 the author has taken from Corwin's *History of the Dutch Reformed Church* a statement which implies that Francis Nicholson was governor of New York in or about 1700. There is no proof that the supervision of the English Church in the colonies was ever "lodged" with any official except the bishop of London (p. 459). The Virginia clergyman who wrote the letter referred to on page 460 was Nicholas Mareau; he wrote it to the bishop of Lichfield, and the model of episcopal character which he desired to see imitated by any person who should be appointed to the colonial episcopate, was that exhibited by Governor Nicholson, and not that of Commissary Blair.

HERBERT L. OSGOOD.

The Legal Procedure of Cicero's Time. By A. H. J. GREENIDGE, M.A., Lecturer in Ancient History at Brasenose College, Oxford. Oxford, Clarendon Press; London and New York, Henry Frowde. 1901. — xiii, 599 pp.

A good book in English on Roman procedure has long been wanted by students of Roman law, and Mr. Greenidge's book comes very near giving them what they want. His "leading design . . . is to furnish students of Cicero's writings with a clue to the chief legal difficulties which they will meet with in their reading" (p. vii); but he has wisely discarded the plan of writing a commentary on Cicero's speeches and has written, instead, a treatise on the civil and criminal procedure of Cicero's time. To make this intelligible, he discusses, by way of introduction, the judicial organization and the civil and criminal procedure of the monarchy and early republic (pp. 15–78, 297–349); and in reconstructing the civil procedure of the late republic he assumes (rightly, as the reviewer thinks) that the formulary procedure described by Gaius was substantially worked out before the time of Cicero, and that "the *onus probandi* usually rests on one who would deny the prevalence in the Ciceronian period of a legal rule enunciated by Gaius" (p. ix). What Mr. Greenidge gives

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

us is, therefore, a full description of the Roman *ordo iudiciorum*, and all that is lacking to make the book a complete treatise on Roman procedure is a description of the *iudicia extraordinaria* of the Empire. For the student of European legal history the imperial system is of great importance, because it furnished the model for the church courts and the ecclesiastical procedure of the Middle Ages and so, mediately, for modern European judicial organization and procedure. For the student of legal science, however, — and the English and American students of Roman law belong almost wholly to this class, — the classical *ordo iudiciorum*, the *quaestio* in the criminal field and the formulary procedure in the civil, are of vastly greater importance. They represent the highest achievement of Roman legal genius in procedure; and it was under the influence of the formulary procedure that the substantive law embodied in Justinian's Digest took form. The "leading design" of the book differentiates it from a treatise intended primarily for law students chiefly in the emphasis laid upon the Ciceronian period and in the minute and exhaustive examination of the legal element in Cicero's writings. One of the appendices (pp. 530–568) gives special commentaries on four of Cicero's orations, and in addition to the ordinary index of subjects there is a special index to passages in Cicero.

A satisfactory treatise on Roman procedure can of course be written only by one familiar with Roman substantive law, public and private. Mr. Greenidge has this qualification. He works with the sources and uses the best and most recent German literature. In controversial matters the reviewer has noticed many points in which he is unable to agree with the author's conclusions. To discuss these points would expand this notice far beyond the space it can fairly claim; but it may be said in general that to the reviewer the author seems to underrate the juristic acuteness of the earliest Roman jurists (see especially p. 529) and to overrate their readiness to sacrifice symmetry and simplicity to equitable considerations. The latter misconception leads him to attribute to the old civil law forms of contract and turns of pleading which probably came in through prætorian innovation subsequent to the establishment of the peregrine prætorship. It seems to the reviewer, further, that the author does not "sense," as a lawyer might, the nature and working of the legal institutions he describes, and that the value of his judgment on controversial questions is lessened by this lack of the legal instinct.

It is perhaps unfair to criticise a book written for classical students, and not offered to students of law, as if it were written for lawyers.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The book is, however, a legal treatise, and so good a treatise that the legal reader is sensitive even to minor defects. In the present state of the English literature dealing with Roman procedure, Mr. Greenidge's volume will be found indispensable by students who do not use the German literature with ease.

M. S.

The Lower South in American History. By WILLIAM GARROTT BROWN. New York, The Macmillan Company, 1902. — xi, 271 pp.

Mr. Brown's collection of essays confirms the conviction now becoming general that the history of the Civil War and Reconstruction can never be properly written until the conditions of life in the South shall have been set forth by students qualified not only by scientific training but also by a personal contact or an inherited sympathy with Southern society. The *post-bellum* generation of Southerners, now just in their prime, must shoulder the responsibility of putting their section in a proper light on the record of history. Their immediate predecessors were too much under the sway of passion; their successors will be as remote as the Northerners themselves from any real insight into the civilization of the old South.

Mr. Brown's little volume shows precisely what is needed, and places under deep obligation all searchers for the most useful standpoint from which to view the most dramatic period of our national history. In the title essays, which, with that on Yancey, "The Orator of Secession," constitute the bulk of the volume, he deals with the Cotton States, the genesis and character of their social system, the extraordinary triumphs of their political aims and the final catastrophe which they brought upon themselves and their associates. It is in the description of the social system of these states that the author most conspicuously manifests his peculiar qualification for his task. Himself a native of Alabama, he pictures the conditions in that typical state with that insight which is the despair of one not to the manner born. On the political side of his story, his generalizations are accurate and forceful. He shows how it was the policy of the Lower South that triumphed on the great issues of the tariff, internal improvements, national finance and territorial expansion, until the question of slavery proved its ruin. While Virginia dominated the earliest period of our life under the constitution, it was her offspring to the southward that were supreme in the middle period. The causes and effects of this fact, and of the contrast of ideals between the Lower South and New England which

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

culminated in the Civil War, have never been better presented in like compass than by Mr. Brown. Both his facts and his philosophy are truthful. Let this passage suffice for demonstration:

> . . . thirty-five years of freedom have proved, what Lincoln seems to have understood, that the real cause of all the trouble was not slavery, but the presence of Africans in the South in large numbers. The leaders of Southern thought in the forties and fifties were trying to do just what the leading men of the South are trying to do now, *viz.*: to discover some way or ways by which a society made up of whites and blacks in almost equal proportions can keep pace with a society made up of whites only. Their plan was to keep the blacks at the bottom, the whites on top. It did not succeed very well, but it succeeded better than the plan adopted in Reconstruction times of putting the blacks on top and the whites at the bottom [page 94].

And again:

> Slavery had to do with the seizure of Texas and the attempts upon Cuba. But we may not attribute to that alone this single act in the long drama which began before the first slave landed in Virginia and ended in 1898. The true cause of it was that old land hunger which half the world has not satisfied [page 77].

While there is a good deal of hazard in the assertion that the drama of expansion "ended in 1898," there is no ground whatever to question Mr. Brown's explanation of the phenomena to which he refers; and it is refreshing to find in his work evidence that what may be called the Von Holst era of American historiography is passing.

Besides the essays on Southern conditions before the war, there are two dealing with *post-bellum* problems, "The Ku-Klux Movement" and "Shifting the White Man's Burden." The former is a well-informed and interesting summary of the earliest attempt to suppress the negro vote, and the latter discusses with much insight and acumen the disfranchising legislation of recent years. The fruitfulness of this study is suggested at once by its formulation of the real essence of "the Southern question": "The main thing is not what to do for the negro, but what to do for the white man living among negroes" (p. 250). The spirit revealed by this statement should be sufficient to attract the attention of all thoughtful Americans to Mr. Brown's book. And those who take up the volume will find not only a sane and sympathetic discussion of a most complex historical and political problem, but also a form and facility of expression that place the essays well up among the higher grades of "mere literature."

WM. A. DUNNING.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

American Municipal Progress. Chapters in Municipal Sociology. By CHARLES ZUEBLIN, Professor of Sociology in the University of Chicago. New York, The Macmillan Company, 1902. — 380 pp.

It has been the opinion of some writers on American municipal government that the American people have been so taken up with the reorganization of their municipal institutions as to have little time and less inclination to devote themselves to the problems of a functional character which the development of urban conditions has brought into prominence. Professor Zueblin seems to have written this book with the intention of showing how baseless this opinion is, and there can be no doubt that he has succeeded in what he has set himself to do. This book is almost encyclopedic in its wealth of illustration as to what American municipalities have done during the past few years towards the solution of problems connected with transportation, public works, sanitation, public schools, public libraries and buildings, parks and boulevards and public recreation.

Naturally Professor Zueblin's book is taken up almost exclusively with what American cities have done rather than with the question of how they have done it. Questions of administration arouse little or no interest in the mind of our author. He is satisfied with telling us that Chicago has elevated railway tracks, and that Boston has built a subway, caring little whether the elevation of the tracks has been the result of the activity of the city of Chicago as a local corporation or whether the Boston subway has been the result of state interference. Indeed one cannot but feel that the usefulness of the book before us has been in some measure diminished by the contempt which its author feels for mere methods. For while it is highly desirable for us to know what has been done, it is also useful for us to obtain a knowledge of the best methods of accomplishing desirable results.

The only instance in which our author departs from his usual policy is with regard to the question of the public ownership and direct operation by the municipalities of water works, gas works and kindred enterprises. This last chapter, entitled "Public Control, Ownership and Operation," is an earnest plea for direct municipal operation in this direction.

Notwithstanding its excellence, Professor Zueblin's book, probably rather because of the limitations of space than because of lack of knowledge on the part of its author, is not by any means exhaustive in its treatment of the various subjects under consideration. Thus

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the treatment of the water question does not give us as full an idea as we might wish to have of the various methods which have been devised for the prevention of water waste. It is also difficult to approve of the author's defense of his omission to consider questions of police and charities. Further, the classification adopted by the author can in some cases hardly be justified. His placing the fire department among "Public Works," which is done for no ostensible reason, is as unjustifiable as his failure to devote any attention whatever to the police.

But apart from these minor defects Professor Zueblin has given us an excellent book, which ought greatly to encourage those who are struggling to obtain the ideal city. For he proves conclusively the truth of what may be said to be the most significant passage in the book, *viz.*, that "if we consider the experience of the chief cities of to-day, we can choose from their successful municipal undertakings examples which would enable us to construct a composite city; and while unsatisfactory as an ultimate goal, it might furnish a convenient working ideal for the contemporary city. If we were even to ignore the richer municipal experience of European cities, we could still construct a high ideal by observing the chief accomplishments of American cities." Professor Zueblin has done much in his book which will enable us to construct this "high ideal."

F. J. GOODNOW.

Government or Human Evolution: Individualism and Collectivism. By EDMOND KELLY. New York, Longmans, Green & Co., 1901. —xv, 608 pp.

The first volume of Mr. Kelly's important study of the part played by conscious human effort in the evolution of man was reviewed in these pages in December, 1900. The work was greeted as the most suggestive that had been added to the literature of political science in many years. Exception was taken, however, to the author's conception of nature as a realm standing below and apart from the realm of the artificial and the spiritual. In the present volume Mr. Kelly refers to the criticism, and explains that he does not wish to be understood as admitting any discontinuity between nature and art, both of which are included in the cosmic order, but only to avoid a possible ambiguity in the word "natural," which we so often use in antithesis to "artificial." My criticism was intended to go a little deeper than this question of words, and to affirm that, in the realm

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of animal nature, a sacrifice of the individual to the type, which Mr. Kelly, like Tennyson, holds to be characteristic, is not without significant exceptions, and that in this occasional reconciliation of individual welfare with racial survival, which becomes more frequent as we ascend the scale to man, and from savage to civilized man, we discover in the nature which precedes reason and art a substantial basis on which human art now builds. I do not imagine, however, that I disagree with Mr. Kelly in fundamental conceptions.

Be this as it may, I am in full accord with him on the practical question of the means whereby man, now arrived at self-consciousness, can by effort secure individual welfare, without injury to the race. That means is Justice, and Mr. Kelly is absolutely right in his conception of justice, which he has explained and illuminated more successfully than any other recent author. The essence of justice, as writers in all ages have agreed, is found in some kind or degree of equality. But what equality? How much equality? English-speaking peoples, following Roman notions to a large extent, have always conceived of justice as including equality before the law. In America, and more recently in parts of Europe, the notion of justice has been broadened to include political equality. Mr. Kelly, like the social democrats, goes further, but unlike them, he goes deep down into the laws of life for his fundamental principles. In its rudest form natural selection involves a merciless extinction of the unfit. In its larger and more complicated processes, evolution, including human effort, shapes an environment in which many are fit. Mr. Kelly identifies justice with an artificial equality which, in a large measure, offsets the ruder inequalities of unartificial nature. His definition of justice is, an "effort to eliminate from our social conditions the effects of the inequalities of nature upon the happiness and advancement of man."

It is obvious that justice so conceived is a limitation of liberty by external or objective equality, equality of condition or opportunity. Yet justice calls for an ever widening liberty. Justice limits liberty only in taking from those who have liberty to abuse, and who abuse it, and giving to those who have little and can profit by more. It enlarges liberty in the aggregate.

These fundamental notions Mr. Kelly worked out as principles in his former volume, *Government or Human Evolution: Justice.* In this second volume we find him grappling with the great concrete problem of the age: How is justice to be attained?

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The title of the book reveals its answer to this question. Individualism is not justice; it never has been, it never can be. Individualism is the sacrifice of all equality — in actual practice it becomes even a sacrifice of equality before the law — and a riotous use of the liberty which those possess and abuse who have power to grasp. It does not yield equal liberty. The collectivism in which alone justice can be established is not, however, that Utopian collectivism which is pictured by a Bellamy. It will not be an ideal state of man. As conceived by Mr. Kelly it is rather a means to an end. It is not to be a substitution, at one fell swoop, of socialism for the present order of things. Rather it is to be a practical, experimental, cautious progress, one step at a time, towards a collective ownership by municipalities, commonwealths and nations, of some of the property necessary to the general well-being, and the establishment of a more effective legal or moral control over the remainder.

I have left little space for words of appreciation of the ability with which Mr. Kelly has elaborated the details of his social philosophy. It would be a cheap criticism merely to say that I agree or that I disagree with his conclusions. For this is a book to be read and studied quite irrespective of agreement or disagreement. It abounds in the most concrete, vital knowledge of facts as well as of theories. Mr. Kelly was the founder of the City Club and of the Good Government Club movement in New York City and he knows the inside history of New York reform efforts. His use of this material makes his volumes the most cogent, up-to-date indictment of individualism, as here defined, with which I am acquainted.

FRANKLIN H. GIDDINGS.

Social Control. A Survey of the Foundations of Order. By EDWARD ALSWORTH ROSS. New York, The Macmillan Company, 1901. — 463 pp.

Professor Ross distinguishes between social control, which is intentional, and social influence, which is without intention; but he does not confine his treatise strictly to the former. Indeed, it would be difficult to name any department of social psychology which he does not at least touch upon in the course of this volume. And he makes use of much that can scarcely be called either psychology or sociology: the wisdom of ancient and modern philosophy, some of the results of the latest anthropological research and the graceful diction of poetry and belles-lettres are here woven together with a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

woof of decided originality into a systematic body — of hot demonstrable knowledge exactly, but something that certainly looks scientific as well as philosophical. If at times the style seems in danger of bordering on the pedantic, it is sure to be redeemed by a touch of picturesque slang or a passage of positive, virile writing.

It is so easy to read this well-written, smoothly flowing volume without getting any notion of what it is all about, that the reviewer, to be sure of his ground, must fall back upon the table of contents. Here we find that the work is divided into three parts: "The Grounds of Control," "The Means of Control" and "The System of Control." In the first part, sympathy, sociability and justice — "the 'mothers' to which, Faust-like, we must repair for the secret of natural goodness" — are examined in turn, but found wanting as the supports of a natural order unless supplemented by the dread of resentment or retaliation, that is, "individual reaction." The California mining camps of 1848 are described to illustrate what is meant by "a natural order." The need of social restraints is insisted upon, and the scriptural exhortation regarding beams and motes is shown to be unworkable and fallacious:

> If only those were allowed to uphold standards who had demonstrated their ability to live up to them, how our reigning ideals would suffer! . . . For the fact that the rôle of the referee is far easier than that of the principal renders available for social control a vast amount of correct sentiment which is too weak to be effective for self-control.

The "radiant points" of social control are found to be chiefly the elders, the military caste, the priesthood, the wealthy, state officials, learned men, the élite, or "those distinguished by ideas and talent," and the occasional genius; of whom the wealthy, the official and the learned classes are considered as gaining in social power, doubtless at the expense of the other radiant points.

The means of control are shown by the table of contents to be public opinion, law, belief, social suggestion (including education and custom), social religion, personal ideals, ceremony, art, personality, enlightenment, illusion and social valuations. The genesis of ethical elements is found in selection, survival and the superior social insight of great men; the maintenance of these elements is assigned to the dead, and to parents, professional disciplinarians, the selfishly conservative and the ethical élite.

Class control, or "the exercise of power by a parasitic class in its own interest," is distinguished from true social control; but it seems

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

necessary to concede that when there is sharp conflict of interest, great contrast of means and great inequality of opportunity, society does split up into jarring groups. Changes in social needs or in the culture and habits of a people, the decline of patriotism and public spirit, the loosening of family bonds, the accumulation or borrowing of new knowledge, new experiences, the wholesale acquisition of exotic wants and chronic internecine strife, are some of the other vicissitudes which endanger social control. The instruments of control are mainly ethical or political. They should be economical, internal, simple, spontaneous and diffused.

Professor Ross comes nearest to being practical in his chapter on the limits of social control. Here he lays down certain canons of a rather negative character: each increment of social interference should bring more benefit to persons as members of society than it entails inconvenience to persons as individuals; social interference should not lightly excite against itself the passion for liberty; it should respect the sentiments that are the support of natural order; it should not be so paternal as to check the self-extinction of the morally ill-constituted; it should not so limit the struggle for existence as to nullify the selective process.

The author's statement of his motive in writing this book is hidden away in a footnote in the middle of the last chapter. "It is investigation of the kind I have attempted in this book," he says, "that will enable society to go about the business of control in a scientific way." It is investigation, certainly, but investigation of a somewhat different kind, to which we must look for the development of a science of social control. Political philosophy and social psychology must be verified or replaced by comparative legislation and statistics. The man who advances social control to the status of a science will draw less upon his inner consciousness and the writings of classical philosophers than upon present-day monographs and public documents. The subject is an eminently practical one, and demands a practical treatment. It is because Professor Ross is metaphysical rather than practical that one lays down his book with a feeling of dissatisfaction. His canons are all very well so far as they go, but they will need to be revised and amplified in the light of social experiment.

MAX WEST.

BROOKLYN, N.Y

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Reports upon Railway Commissions, Railway Rate Grievances, and Regulative Legislation. By S. J. McLean. Ottawa, Canada, S. E. Dawson, Government Printer, 1902. — 79 pp.

This pamphlet contains two reports by Professor McLean to the Canadian Minister of Railways. The first, submitted in February, 1899, discusses the regulative policy of various countries and applies their experience to Canada's needs. The second, which bears date of January 17, 1902, concerns itself mainly with rate grievances and renews the suggestions of the earlier report. The testimony upon which the second report is based has unfortunately not been published, and a critical examination is impossible. But the reader feels in the perusal of this brief summary that he is reviewing the history of United States railroads. What our Western railroads experienced in the early years of scanty settlement and apparent railroad oppression, is now to a considerable extent the experience of the Canadian Northwest; and the sections industrially further advanced, as the Pacific Coast and the Province of Ontario, are struggling with many of our present problems. Some of these are of direct interest to us, as they are concerned with American competition. There appear, for example, to be numerous complaints that the Canadian Pacific levies higher charges upon shipments to Pacific Coast points than are imposed to points further south in the United States — a practice which the road justifies by calling attention to the greater volume of traffic, easier grades and lower cost of operation upon American lines. It is difficult, without the evidence, to reconcile these complaints with the differentials steadily maintained by the Canadian Pacific in its competition with American roads. Ontario has our import rate problem. American products are brought into Canada at lower rates than are given to Canadian products of like nature, and shipments from the United States pass through Canada to the seaboard at rates that are not open to home products seeking the same destination. The contentions in both cases seem to be supported by evidence and admitted by the railways concerned, and both seem to be more or less beyond the control of Canadian authority.

The report covers such familiar subjects as classification, distributive rates, car-lot *vs.* less than car-lot rates, excessive rates and discriminations, competitive *vs.* non-competitive traffic, minimum weights, rebates and transcontinental traffic.

The investigation, which discloses so many grievances with little apparent means of remedy, concludes with the recommendation that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a railway commission patterned after that of the United States, but profiting by the unfortunate experience of both the English and American bodies, shall supersede the existing Railway Committee. This Railway Committee of the Privy Council, consisting of the Minister of Railways and Canals and certain members of the Cabinet, possesses power to hear complaints regarding rates and discriminations and oversees traffic arrangements. No company may levy rates which have not received its approval. Being obliged to remain in Ottawa, it permits the submission of grievances by letter and does not compel the complainant to appear either in person or by attorney. If the complainant fails to make out his case, the costs are paid by the government, provided he has acted in good faith. The committee is generally supposed to be at least as efficient as the Interstate Commerce Commission. Yet Professor McLean urges a change, on the ground that the committee consists of political officers whose tenure is uncertain, who lack technical training and whose political duties oblige them to hear all complaints in Ottawa, with the result that the committee is of no value to the distant sections of the country, which are most in need of relief. The author urges, as a lesson from English and American experience, that the powers of the proposed commission be carefully defined; he recommends that inasmuch as the matters to be dealt with are administrative rather than judicial, the decisions of the commission shall be final, subject only to appeal to the Governor in Council; that one member shall be skilled in law and one in the railway business; and that all shall enjoy a life tenure. The wisdom of the last proposal is, to say the least, questionable, in view of the expressed intention that the commission shall be a non-judicial body.

The indifferent success of the Interstate Commerce Commission can hardly strengthen the author's appeal for a Canadian commission, yet it cannot be doubted that much good might be accomplished by a body of this character which should seek in the right spirit to remove misunderstandings between shipper and carrier. The author does well, however, to remind his readers at the conclusion of his report that "no species of regulation can remove all the complaints that have arisen."

It is to be regretted that no mention is made of the Intercolonial Railway, owned and operated by the Dominion Government. Doubtless, for obvious reasons, Professor McLean was not instructed to investigate the workings of this melancholy but illuminating experiment.

DARTMOUTH COLLEGE. FRANK HAIGH DIXON.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Les syndicats industriels de producteurs. By PAUL DE ROUSIERS. Paris, Librairie Armand Colin, 1901. — 12mo, 290 pp.

The author of this work is well known to American students through an earlier book, *Les industries monopolisées aux États-Unis*, published in 1898. The present volume is devoted to a study of industrial combinations in France, Germany and the United States; and its purpose is to show why producers have formed these alliances, and why certain combinations have been the object of such lively attacks. An answer to these questions, the author thinks, will enable us to determine whether combination is going to end in true monopoly, and, if so, whether such a result will be the outcome of freedom of competition, as is so often alleged.

Turning first to the United States, de Rousiers reviews the ground covered in his former work. He considers our trusts to be true monopolies, even though some independent producers remain outside of the combinations; and he attributes their monopolistic features to the possession of special privileges, and not to mere industrial concentration. The latter he recognizes as an inevitable outcome of modern industrial life, and he concedes that it produces conditions that are favorable to the growth of trusts; but he does not believe that it would have led to monopoly if special privileges had not been enjoyed by the combinations. Chief among these privileges are railroad discriminations, the control of pipe lines and the advantages derived from the protective tariff.

Passing next to German conditions, the author devotes a chapter to a consideration of the cartel. He holds that between the trust and the cartel there exists a radical difference — a difference of nature, not of degree. The former results from the triumph of a single concern over all competitors, while the latter is a truce concluded by combatants that find themselves of nearly equal strength. Such a statement concerning American trusts may be tolerably correct in some noteworthy instances, but it is certainly inaccurate for the larger number of cases. M. de Rousiers, however, is on safer ground when he asserts that industrial rivalry in Germany is less of a life and death struggle than it is in the United States, and that the cartels generally adopt toward new competitors a policy which is more considerate than that of the average American trust. The formation of cartels he attributes primarily to a desire to control the volume of production and to regulate prices; but other causes, such as the protective tariff and even the formal or tacit approval of the government, have exerted no inconsiderable influence. While the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cartels have not greatly oppressed the consumers and have to some extent steadied prices, de Rousiers contends that they have maintained an artificial level of prices in the home market and have exported their surplus products at much lower figures. Moreover, the feeling of security which the syndicates have fostered seems to have acted as a check upon industrial progress, so that Germany is not so well prepared to meet the growing competition from the American trusts as it would otherwise be.

The author finds that in France the movement toward monopoly has manifested less strength than in Germany or the United States, because fewer artificial restraints upon the play of free competition have existed. In some cases attempts to establish monopolies have succeeded by force of exceptional circumstances, such as protective duties, patents, trade secrets and the like, especially in industries that can be conducted only upon a large scale. In the metal trades, also, syndicates of producers have been formed, of which Le Comptoir de Longwy is the chief. This is, however, merely a selling agency which distributes orders in certain proportions without attempting to fix the amount which shall be produced. Other selling agencies exist and probably enable producers to make the most of the advantages offered by protective duties; but the opinion of the author is that the main effect of these comptoirs is merely to give better direction to the sale of metal products, and perhaps to check the movement toward concentration.

In a final chapter M. de Rousiers summarizes his conclusions, which do not differ from those presented in his earlier work. Concentration is, in itself, when not fostered by special privileges, a necessary and beneficial result of modern industrial conditions; and he believes that it cannot, under normal circumstances, lead to monopoly. His reasoning will not convince many of his readers, and it is certain that he passes somewhat jauntily over numerous controverted questions; but to the reviewer the main contention of the book appears thoroughly sound.

CHARLES J. BULLOCK.

WILLIAMS COLLEGE.

Festgaben für Albert Schaeffle zur siebenzigsten Wiederkehr seines Geburtstages. Tübingen, Verlag der H. Laupp'schen Buchhandlung, 1901. — viii, 390 pp.

In accordance with a pleasant German custom, six professors, representing as many different disciplines, have contributed essays

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for a volume in honor of Dr. Albert Schaeffle, on the occasion of his seventieth birthday, February 24, 1901. The wide scope of Dr. Schaeffle's own interests, as well as the esteem in which he is held by his colleagues, is indicated by the variety of subjects treated in this volume. Few men in Germany have been as productive in scientific writings as Schaeffle. While only ten years of his life have been spent in a professor's chair — in Tübingen and in Vienna — he has for over half a century been an editor — since 1892 sole editor — of the *Tübinger Zeitschrift*, and has written voluminously for that as well as for other periodicals and for encyclopædias. He has also published some fifteen large works in book form.

The largest of the six essays is by Karl Victor Fricker on "Gebiet und Gebietshoheit." In 1867 Professor Fricker wrote an essay on the same subject, and in the thirty-five years that have elapsed since that event some writers had criticised the article and others had passed it by. Both the critics and the ignoramuses are attacked in the present article, which is a defense and expansion of the previous one. Professor Fricker's thesis is that "territory is not an independent element [in the conception of the state] together with people and sovereignty, but is only the spatial limitation, within which the people are organized." To one standing outside the narrow circle of an academic controversy, such a polemic seems a barren misdirection of energy.

In the second article, Professor Friedrich Ratzel has made an interesting bio-geographical study, entitled "Der Lebensraum." The distinguishing characteristic of life, he says, is its conquest of room or space, which is aided by winds and streams and currents and larger animals. But these passive means of migration are less important than Darwin would have us believe; far more important is what Ratzel calls colonization — "the people, the race, the species, can migrate only by colonizing." At the same time with the movement of all life there goes on a struggle for space — this is really the so-called struggle for existence. In view of these facts, how are we to determine the "creation centre" of a species? The widespread belief that the point of origin of a species corresponds with the centre of its geographical distribution, is false. The periphery is of more importance than the centre, for that may indicate the direction in which the migration and colonization have been proceeding, and from this we may guess at the point of origin. But a guess is all we are entitled to.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The third article, like the first, is polemical. In 1893 Professor Karl Bücher of Leipzig published his "Entstehung der Volkswirtschaft" (recently published in English under the title "Industrial Evolution"), in which he described the stage of economic development attained by classical antiquity in general as one of household economy (*geschlossene Hauswirtschaft*). This statement was vigorously attacked by Professors Eduard Meyer and Julius Beloch, who attempted to show that there was developed in Greece by the fifth and fourth centuries B.C., a factory system on a large scale, with an accompanying development of banking, commerce and finance. In the present essay Professor Bücher supports his original position, and demolishes the arguments of his critics with much sarcasm and learning.

In "Zur Geschichte des Wucherstreites," Franz Xaver Funk contributes an additional chapter to his *Geschichte des kirchlichen Zinsverbotes* from some new material. He first describes the discussion aroused by a four per cent loan of the city of Verona in 1740; the taking of interest in such cases, as well as in business transactions, was defended by one Scipio Maffei, but was finally declared wrong by Pope Benedict XIV. A later controversy was inaugurated by a pamphlet of J. J. Rossignol, *De l'usure*, in 1787, in which the prohibition of interest was restricted to loans to the poor and needy. Dr. Funk's essay, while short, is clear and well written.

"The Doomsday Book in Württemberg," by Gustav von Mandry, is a detailed and technical account of the manner of registering property, the organization of the registration office and the methods of keeping the books.

Though Professor Georg von Mayr modestly calls his essay on "The Content and Grouping of the Political Sciences" a pleasure trip into new fields, he proves himself quite at home in them. Beginning with the most general conception, he first classifies the social sciences: these consist of (1) the general social sciences, as statistics and sociology; (2) the special social sciences, as economics, science of the state, and law; and (3) history. Out of the varied groupings of these sciences arise the political sciences. This latter term is used, however, with two distinct meanings: on the one hand, in a strict verbal sense, to denote the science of the state, which includes a study of political institutions and jurisprudence; and on the other, in a narrow transferred sense, to denote the science of industrial and social life. This latter is the modern and popular connotation of the term. Finally, in a most general and broad sense, the political

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sciences may be said to include not only the science of the state, but also those of society in general, and of industrial and social life in particular. The major portion of the essay is devoted to a description of the individual disciplines and a delimitation of their scope and content.

The wide range of the subjects discussed in the volume testifies to the broadness of the field covered by the modern political and social sciences, and renders it, aside from the occasion of publication, a most interesting book. The paper, printing and workmanship are of the very best, and the volume is one well worthy of the scholar to whom it is dedicated.

ERNEST L. BOGART.

OBERLIN COLLEGE.

Le Compagnonnage. Par E. MARTIN-SAINT-LÉON. Paris, Librairie Armand Colin, 1901. 374 pp.

Hubert-Valleroux, who has also written upon the subject with which this volume deals, says that the wage workers of the Middle Ages took the name *compagnons* from the fact that they were lodged with the master and ate at his table, — *cum pane.* The author, M. Martin-Saint-Léon, is already known through a volume published in 1897, *Histoire des corporations de métiers.*

The present study, *Le Compagnonnage,* is almost exclusively a work of historical research. It begins with the legendary period in the time of Solomon, though the author finds no authentic documents until the beginning of the sixteenth century. The various brotherhoods among the church builders of the twelfth and thirteenth centuries constitute, in the author's opinion, a type on which the *compagnonnage* was founded. The "communal renaissance" of the twelfth century, filled with a new spirit of democratic ideals and infused with the artistic passion of the time, furnished the favoring conditions for these associations.

It is certain that the *corporation de métiers* was powerful at this time, but it was very inclusive, taking in valets, apprentices and masters, while the *compagnonnage* excluded masters. It clothed itself in all sorts of mysteries and adopted an elaborate cabalistic vocabulary. The author notes carefully all these differences, but sees in the conditions of the time "une présomption très forte en faveur de l'opinion qui tend à placer autour des cathédrales en construction le berceau de la confrérie de compagnons."

At the opening of the sixteenth century definite documents are at hand. Henceforth the story is clear.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Chapter III contains a graphic account of the one hundred and fifty years of struggle for the distinctively group rights of the laborers. Until the general condemnation of the *compagnonnage* by the Sorbonne in 1665, there was a long series of chronic feuds with every form of constituted authority, — church, state, commune and employer. No power was adequate, however, to hold in check this new impulse for organization.

It was organized anew, carrying on its struggle against the masters and often with equal valor against the schismatics within its own membership. The famous law of the Revolution (1791) abolishing corporations of arts and trades harmed it as little as the condemnation by the Sorbonne. The *livret* was reëstablished under the Consulate, and the *compagnonnage* flourished under both the Empire and the Restoration. The beginnings of decay appear after the Revolution of 1830. Among the first signs noted by the author is the frequent ridicule excited by the secret symbolism. The growth of cities, the increasing mobility of labor, the rise, in a word, of modern industry, marks its slow disruption. The Revolution of 1848 hastened among wage earners the growth of a spirit that weakened still further the old bonds. Every railroad, every extension of automatic mechanical inventions struck at the very roots of this mediæval institution. The three or four groups now in existence are little more than mutual benefit associations.

As the author writes at the close of his delightful story, "Aujourd'hui le compagnonnage est mort ou se meurt," the reader is left in suspense. Are the quarrels between employer and employed fewer and less bitter? Has the destruction of the old personal tie between master and helper been a gain or a loss for social peace?

JOHN GRAHAM BROOKS.

Deutsche Wirtschaftsgeschichte in den letzten Jahrhunderten des Mittelalters. Von DR. KARL THEODOR VON INAMA-STERNEGG. Band III, Zweiter Theil. Leipzig, 1901. — 559 pp.

This concludes the third and last volume of the author's work on German economic history in the Middle Ages. For half a lifetime he has been engaged in this field and has gradually broken a path through a most intricate subject. The first part of this volume, which was reviewed in these pages last year, was occupied chiefly with agricultural conditions. The second part now takes up industry and commerce and enters at once into the forms of organization by

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which industrial labor was guided. At the foundation lay manorial law, and even to the close of the Middle Ages the organization of the manor continued to regulate in part the worker and his productions. Originally the aim of industry was to satisfy the wants of the manor only; but the possibility of supplying the demands of outsiders gradually increased, and the lord of the manor was in time compelled to establish industrial ordinances for his villages. Yet these were extremely simple; for throughout the Middle Ages every farmer's family produced most of its own necessaries and stood economically independent.

At the same time the gathering of men in cities was steadily increasing. Industry and commerce were the objects of these aggregations, and the necessities of regulation gave rise to the mediæval industrial organization. The town, not the country, solved the problems of industrial government, and the story begins with the formation of brotherhoods of workmen in the same trade. The first position gained was the legal recognition of the right to form trade guilds; the second point was taken when city governments consciously adopted ordinances and followed policies favorable to industry; and the third stage was reached when the guilds became the controlling power in the city, or even became the government itself. This last was not a permanent result in Germany, for the political supremacy of the guild was early counteracted in part by the territorial overlords, whose policies had a larger scope. Nevertheless, the inner life of the guild was all-important for the individual workman, and the extent of this influence is pointed out in detail by the author.

The chapter on mining sketches the rise and growth of that occupation in the Middle Ages, but is devoted chiefly to the legal conceptions which prevailed concerning the products of the earth, and to the regulation of the industry as well as the organization of the workers. At first considered as a part of real estate and owing royalty to the property owner, mines came to be considered subject to territorial overlords and taxable as public property, so far as a feudal conception of the public admits that definition.

The development of commerce is the most striking feature of the economic life of mediæval Germany, as elsewhere. The author shows first the growth of a national commercial policy and the effort of the empire to protect trade, then the influence of provincial magnates, the contributions of manorial lords to facilities for commerce, and finally the part played by the cities in the organization of traffic. Extremely intricate even to contemporaries were the subjects of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

money, weights and measures. Much more so are they to the investigator of to-day, who finds a different system in every province and statistical information in fragments only. One redeeming feature was that the theoretical basis was the pound of silver divided into shillings and pence, but variations from the standard appear to be the rule, not the exception.

During the last three centuries of the Middle Ages Germany advanced rapidly in economic prosperity. Owing to the extension of industry and commerce abroad, and the growth of cities at home, there was a great increase in national wealth. Germany stood on the topmost pinnacle of economic power in Europe; but she began to decline in the fifteenth century, when Flanders, England and other nations cut loose from her commercial guidance. The Orient was absorbed by the Turks, and the field of commercial operations greatly diminished.

So brief a description as this does not adequately indicate the solid march of argument in this work. Where others have pursued special studies of parts of German economic history, the author presents a comprehensive view, the result of laborious effort over a wide field.

J. M. VINCENT.

JOHNS HOPKINS UNIVERSITY.

The History of English Law before the Time of Edward I. By SIR FREDERICK POLLOCK and FREDERIC WILLIAM MAITLAND. Second Edition. Cambridge, England, University Press; Boston, Little, Brown & Co. 1899.

The first edition of this work was reviewed at some length in the QUARTERLY[1] by Prof. Heinrich Brunner of Berlin. His judgment, that the authors had "at once brought the history of English law from 1154 to 1272 up to the full height of modern scientific research," has been the judgment of all competent critics in Great Britain and in America; and the distinction and charm of style which he recognized have been felt by all English readers. It is therefore not surprising, although it is creditable to the public on both sides of the Atlantic, that a second edition of the work has already become necessary. In the preface to this edition the authors, in thanking their learned critics, especially acknowledge the value of Dr. Brunner's observations; and an examination of their text and notes shows that many of his suggestions have in fact been

[1] POLITICAL SCIENCE QUARTERLY, XI, 534–544.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

accepted. Apart from such minor changes, the section on "Corporations and Churches,"[1] and that on "The Borough"[2] have been recast; chiefly, as we are told, because of a repeated perusal of Gierke's writings on the *Genossenschaft*. Entirely new is the opening chapter on "The Dark Age in Legal History," in which Professor Maitland gives, in brief compass and in broad outlines, a synchronistic view of European legal development from the third century to the twelfth. The excellence of this abstract can be fully appreciated only by one who has toiled through the books on Roman, German, French and ecclesiastical legal history which the author cites and among which the facts he needs are scattered. Brief as is the summary, it contains several of those unexpected and illuminating comparisons which Professor Maitland has taught us to expect from him. When, for example, he tells us that in the second century "excommunication gradually assumes its boycotting traits," the reader suddenly realizes things that may well have seemed to him foreign and far off. Another comparison, which is well worth citing, makes vivid both the system of personal laws within the Frankish empire and the position of Roman law among the Germanic tribal customs.

> In the British India of to-day we may see, and on a grand scale, what might well be called a system of personal laws, of racial laws. If we compared it with the Frankish, one picturesque element would be wanting. Suppose that among the native races there was one possessed of an old law-book, too good for it, too good for us, which gradually, as men studied it afresh, would begin to tell of a very ancient but eternally modern civilization and of a skillful jurisprudence which the lawyers of the ruling race would some day make their model. This romance of history will not repeat itself [vol. i, p. 15].

M. S.

[1] Bk. ii, ch. ii, § 12, formerly entitled "Fictitious Persons."
[2] Bk. ii, ch. iii, § 8.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RECORD OF POLITICAL EVENTS.

[From May 10, 1902, to November 10, 1902.]

I. THE UNITED STATES.

FOREIGN RELATIONS. — A somewhat unusual proceeding which has had the effect of bringing the United States into relations with the European concert was an identical note addressed by Secretary of State Hay, on September 16, to the signatory powers of the Berlin treaty of 1878, **protesting against the oppression of the Jews in Roumania** and appealing to the signatories, as the powers responsible for the creation of Roumania, to compel its government to observe the obligations of humanity in its treatment of the Jews. The government of Great Britain, one of the parties to the treaty of Berlin, promptly acknowledged the receipt of the note with a statement that the situation would be inquired into. — The treaty with Denmark for the **cession of the Danish West India Islands to the United States** (see last RECORD, p. 547) was not approved by the Upper House of the Danish legislature (Landsthing) within the time allowed, on account of the obstructive tactics of the opposition. In consequence of this a new treaty was concluded early in June, extending for one year, that is, until July 24, 1903, the time limit for ratification. In the Danish elections of September 4, the government won a substantial victory; but in spite of this, a bill for the ratification of the treaty was rejected by a tie vote of the Landsthing, October 22. — A matter of international interest has been the arbitration proceeding before The Hague International Tribunal in the Pious Fund Case, to determine whether the United States or Mexico should be held liable for the payment of certain funds to the Catholic Church in California. These funds originated in gifts made in trust to the Jesuits in the seventeenth century, for the establishment and maintenance of missions in California. The decision of the court was that Mexico should pay to the United States $1,420,682 in Mexican currency within the ensuing eight months and $43,050 each succeeding year. The contentions of the United States were sustained in every particular except as to the kind of currency in which payment is to be made. The settlement of another dispute by arbitration has been effected by the decision of King Oscar of Sweden, to whom was referred the question of liability for damages occasioned to foreign residents (mostly Germans) by the intervention of the United States and England for the protection of English and American property during the Samoan troubles of 1899. The decision awards $450,000 to foreign residents of Samoa who sustained losses, the amount to be paid by the United

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

States and England. — Several treaties have lately been concluded between the United States and foreign powers. The first of these was a **treaty of Amity, Commerce and Navigation with Spain** signed July 3. — A **Convention with Great Britain**, ratified by the Senate, June 30, secures to the United States the rights accorded to other powers in Zanzibar. — In September an agreement was entered into **between the United States and France** for the extension of the time limit for the ratification of the Commercial Convention between the two countries of July 24, 1899 (see RECORD for December, 1899, p. 737). The Convention was framed on a reciprocity basis and provides for the minimum tariff, with a few exceptions, on articles exported to France from the United States. — The exchange of ratifications of an **extradition treaty between the United States and Chili** took place May 27.

THE DEPENDENCIES. — On May 20, by direction of the President, **the government of the island of Cuba** was transferred to the President and Congress of the Republic of Cuba, and the occupation of the island by the United States was declared to be at an end. The withdrawal was made subject to the condition that the government of Cuba should assume all obligations with respect to the island which the United States had assumed by the treaty with Spain of December 10, 1898. It was also the understanding between the two governments that the plans already devised for the sanitation of the island and other measures to prevent a recurrence of epidemics should be carried out by the government of Cuba. The Isle of Pines was left under the jurisdiction of Cuba until the matter of title should be settled by treaty. On the day of the transfer the Department of State sent identical notes to all United States ambassadors and ministers abroad, informing them that military occupation had ceased. On June 16 Señor Quesada was received at Washington as minister from the new republic. The work of **political reorganization** was at once taken up by the new government. On May 16 the announcement was made of the names of the members of President Palma's Cabinet. In his first message to the Cuban Congress he urged liberal appropriations for schools, for the encouragement of agriculture, and for the improvement of the sanitary condition of the island. Among the noteworthy measures of the Cuban Congress was an act granting amnesty to all prisoners who fought in the Cuban army, and an act to raise a loan of $35,000,000 to pay the soldiers and for advances to planters. — The bill which passed the United States House of Representatives on April 18, providing for a **reduction of the customs tariff on sugar imported from Cuba** (last RECORD, pp. 348, 349) was referred to the Senate Committee on Relations with Cuba and was never reported. On June 13 President Roosevelt sent a special message to Congress urging tariff concessions to Cuba on grounds of expediency and morality, and his arguments were repeated in personal conferences with leading senators. At a final caucus of Republican senators, held on June 18, nineteen members announced their unalterable opposition to the measure, and the session

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

closed without further action by the Senate. It was then announced that a reciprocity treaty would be negotiated with Cuba and submitted to the Senate at the next session. — **The military operations in the Philippines** have for the most part been confined to skirmishes with the rebellious Moros on the island of Mindanao. The most noteworthy of these was a defeat of a Moro band by Captain Pershing, October 4, resulting in the killing or wounding of one hundred insurgents and the destruction of a number of their forts. — In connection with the military operations several army officers have been tried by courts martial on charges of cruelty to Filipino captives. Of these Brigadier-General Jacob H. Smith (last RECORD, p. 348) was found guilty of conduct to the prejudice of good order and military discipline. The findings were approved by the President, and General Smith was retired from active service. In several other cases the officers were acquitted by the courts martial, but upon review by the President the findings were disapproved. — A legislative measure of great importance to the Filipinos was an **Act for the Temporary Government of the Philippine Islands.** The bill which passed the House of Representatives in April (see last RECORD) provided for a gold monetary standard and for a popularly elected legislative assembly to be immediately called into existence with the Philippine Commission as an Upper House. The Senate, after seven weeks of debate, passed by a vote of 48 to 30 (three Republicans voting in the negative and one Democrat in the affirmative) a bill which provided for the establishment of a popular assembly only after the taking of a census and after a condition of general peace and good order should have prevailed for two years, and which provided furthermore for the use of the silver standard in the islands. The House adhered to its original bill but finally consented to a compromise, and the resulting measure passed both Houses on the last day of the session. In its final form all reference to a monetary standard is omitted, while the provision in regard to the legislature directs that after the expiration of two years, if a condition of peace has prevailed in the island, a general election shall be held for the choice of delegates to a popular assembly (the Philippine Commission serving as the Upper House) and two commissioners are to be chosen by the legislature to represent the islands in the Congress of the United States. The powers of the legislature are defined in the act and an extended bill of rights secures to the individual certain guarantees relative to life, liberty and property. The inhabitants are deemed to be citizens of the Philippine Islands and entitled to the protection of the United States. The Philippine Commission is authorized to establish municipal and provincial governments so far as the inhabitants are fit for the same, and to determine the qualifications of electors; to make rules and regulations for the disposition of the public lands; and to acquire the friars' lands for the government and to issue bonds for the payment of the same. The public lands are to be open to homestead preëmption according to the American practice except that the amount which may be owned by any corporation is limited to 2500

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

acres. Upon the Supreme Court of the United States is conferred the power to review the decisions of the Supreme Court of the Philippines in cases involving the Constitution of the United States. — On July 4 President Roosevelt issued a proclamation **declaring the Philippine insurrection at an end** everywhere except in the Moro territory and extending a full pardon and amnesty to all persons, with a few exceptions, in the archipelago who had in any way resisted the authority and sovereignty of the United States. By separate proclamations issued through the Secretary of War the President expressed his appreciation of the service of the army and relieved the general commanding the division of the Philippines from further duties as military governor, his authority in civil matters being superseded by that of the Philippine Commission. — **The negotiations for the purchase of the friars' lands,** according to the provisions of the Philippine Government Act, were begun in Rome between Governor Taft and the papal authorities early in July. In a note of July 3 Governor Taft proposed to purchase the lands at a price fixed by five arbitrators, provided all friars should withdraw within two years after the first payment. On July 9 the Vatican met this proposition by a counter proposal, and in an accompanying note intimated that the demand for the withdrawal of the friars could not be acceded to. On July 24 the negotiations were temporarily suspended, to be resumed in Manila, the Vatican to be represented by a special delegate. — A statement issued by the Secretary of War on June 19 estimated the **total cost of the insurrection** in the Philippines to date at $170,326,586.

INTERNAL ADMINISTRATION. — The currency situation in the autumn, when the customary difficulties of the time of crop-moving were enhanced by the general prosperity and business activity, led to the **intervention of the Treasury to prevent financial disturbances.** With a view to increasing the supply of currency the Secretary of the Treasury, by a circular of October 1, authorized banks holding government deposits secured by United States bonds, to substitute for the latter specified state and municipal bonds, provided that additional bank-note circulation be taken out to the full value of the government bonds thus released. By a circular of October 4 he exercised the discretion vested in him by the National Banking Act to suspend, so far as government deposits secured by government bonds are concerned, the enforcement of the provision in the law which requires that all national banks shall maintain a certain reserve against all deposits. — A **civil service order** promulgated by the President, May 29, arranges the employees and officers in all branches of the classified service of the United States in six classes according to the amount of salary received. From this classification are excluded laborers and persons appointed to office with the consent of the Senate. Hereafter, no laborer appointed without examination is to be assigned to work of the same grade as that performed by classified employees. The purpose of the order is to break up the practice of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

appointing "laborers" without examination and then assigning them to clerical work. An order of the President issued July 5 provides that no recommendation for the promotion of any employee shall be considered unless made by the officer under whose supervision such employee is serving. The resort to outside influence to secure a promotion is made a sufficient cause for debarring the applicant, and its repetition leads to dismissal from the service. — An interpretation of the meaning of the term "just cause" in the provision of the civil service law which forbids removal except for just cause, was given by the President in an order of May 29. It was held to mean any cause, other than one merely political or religious, which will promote the efficiency of the service. — A matter of interest in the domain of **Indian affairs** was the supplemental treaty between the government and the Choctaw and Chickasaw tribes, which was ratified by a large majority of those nations in September. It provides for the sale of coal lands at public auction, for tribunals to re-try citizenship cases tried in 1896, and for the enrollment of all Mississippi full-blood Choctaws. — An order of the War Department issued in July reduced **the strength of the army** from 77,287 men to 66,497 men, which number was still further reduced by an order of October 15 to 59,600, the legal minimum.

CONGRESS. — The first session of the Fifty-seventh Congress, which began December 2, 1901, ended July 1, 1902. In addition to the list of acts mentioned in the last RECORD (p. 351), the two most important measures of Congress were the bill for the **temporary government of the Philippines** (see above) and the bill for the construction of an **Isthmian Canal.** The bill to construct the canal by way of the Nicaragua route, which passed the House with practical unanimity in January (last RECORD, p. 351), was held up in the Senate in consequence of the subsequent offer of the Panama Company to sell its property and franchises to the United States for $40,000,000 and the recommendation of the Isthmian Canal Commission that the proposition be accepted and the canal constructed by way of the Panama route. After a lively discussion, continuing through a period of three months, the Senate adopted in place of the House bill the so-called Spooner substitute. This the House finally accepted on June 26 by a vote of 252 to 8, and it became law by the approval of the President shortly thereafter. The act authorizes the President to purchase the rights and property of the Panama Company for $40,000,000, provided a satisfactory title can be secured, and further authorizes the Secretary of War to construct the canal at a cost not to exceed $130,000,000. If a satisfactory title cannot be secured the President is authorized to construct the canal by way of the Nicaragua route at a cost not exceeding $180,000,000. The act directs the President to acquire by negotiation from the government of Colombia the necessary territory including jurisdiction over the same. If this cannot be secured he is authorized to revert to the Nicaragua route and to begin negotiations with the government of that country for the necessary concessions. — Two acts of considerable importance were a bill for the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reclamation and irrigation of arid lands in the West and the so-called **Omnibus Public Buildings Bill.** The former provides that all moneys derived from the sale of public lands in seventeen states and territories, with some slight exceptions, shall be reserved as a special fund for the construction of an irrigation system in the respective states. The fund is expected to amount to about $750,000,000. A large number of senators abstained from voting on the bill. In the House it passed by a majority of 146 to 55. The Public Buildings Bill carries an appropriation of $20,000,000 for the erection of public buildings in various cities and towns of the country. —**Less important measures** were an act making oleomargarine and other imitation dairy products subject to the laws of the states into which they are transported and imposing a revenue tax thereon; an act to promote the efficiency of the revenue cutter service; and an act to extend the charters of national banks. In addition to the list of measures mentioned in the last RECORD (p. 352) as passing the House but not receiving the approval of the Senate, were bills to provide an eight-hour day on all government work performed by private contractors; to amend the national bankruptcy law; to increase by twenty-five per cent the salaries of all Federal judges, and to protect the President from anarchistic attacks. The last mentioned was a substitute for the Senate bill to protect the President. The two Houses failed to reach an agreement upon the subject, and neither measure became law. A proposition for amending the constitution so as to fix the date for the inauguration of the President on the last Thursday in April was passed by the Senate. An important provision in the naval bill, as it passed the House, provided that at least one-half of the new vessels authorized should be constructed in government yards. As finally accepted by the Senate it provided that at least one shall be thus built. — Among important measures which were the subject of considerable discussion, but which did not secure the approval of either House, were bills to construct a telegraphic cable between the United States and the Philippine Islands via Hawaii; to secure pure foods; and to reform the currency by making it more elastic and maintaining the gold standard. — The total money appropriations for the session, as estimated by the chairman of the Senate Committee on Appropriations, was $800,193,830, the largest item being $139,842,230 for pensions. The River and Harbor Bill carried $65,000,000, the largest amount in its history.

THE ELECTIONS. — On November 4 the elections for representatives in the Fifty-eighth Congress were held in all the states except Maine, Oregon and Vermont, where they had already been held in September. In the September elections the Republicans won all the seats, eight in number. In the November elections the Democrats made considerable gains in a number of states, and the Republican majorities of two years ago were quite generally reduced. The returns, however, indicate that the Republicans will have a majority of twenty-two in the next Congress, as against a majority of forty-three in the present one. The total number of representatives

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

chosen under the new decennial apportionment was 386, as against 357 under the old; and it is worthy of note that 289 members of the present House secured renominations from their respective parties. The political complexion of the newly elected legislatures is such as to insure the Republicans a majority of seventeen in the Senate of the next Congress. The leading national issues involved in the election were the question of the so-called trusts and tariff reform, while the government's insular policy came in for a minor share of consideration. The money question, which has recently occupied a foremost place among the national issues, was not raised in this campaign. The Democratic party everywhere united on the new issues, although there were minor factional fights in several states over the question of the reaffirmation of the last national platform and the endorsement of Mr. Bryan. In five Southern states, Georgia, Florida, Arkansas, Mississippi and South Carolina, no Republican candidates appeared to contest the election with the Democrats, and in but two others did they meet with any success. A noteworthy feature of the campaign was the so-called "lily white" movement among the Republicans in several Southern states, as a result of which negro delegates were excluded from participation in the Republican State Conventions. On the same day on which representatives in Congress were elected, full state tickets, including members of the legislature, were chosen in twenty-two states; in two, legislatures alone were chosen, while in eleven others minor state officers and judges were elected. In Kansas, Nebraska, and North Dakota, the Democratic and Populist parties united upon fusion candidates, but were defeated by the Republicans. In all the Northern states except Rhode Island, where gubernatorial elections were held, the Republican candidates were successful. In New York only a part of the Republican ticket was successful, the Democrats electing their candidates for attorney-general and justice of the Court of Appeals. In Vermont neither of the three candidates for governor received a majority, and the election will be made by the legislature.

STATE LEGISLATION. — On June 6 **the new constitution of Virginia** (see last RECORD, p. 353) was formally adopted by the convention by a vote of 90 to 10, two Republicans voting in the affirmative. After considerable debate the convention rejected propositions to submit the constitution to the entire electorate or to an abridged electorate, and voted to proclaim the constitution in force without popular ratification. The so-called "grandfather" and "understanding" clauses are to be in force until January, 1904, after which date, payment of a poll tax and ability to write legibly are to be the chief qualifications for voting. — After four months and a half of exciting debate **the new constitution of Connecticut** (see last RECORD, p. 353) was adopted by the convention by a vote of 94 to 50. On June 16 it was submitted to the electorate and rejected by a large majority, the chief objection being the provision for representation in the legislature, which gave a preponderance of representatives to the larger towns and cities. — An **extra session of the Ohio legislature** was convened in the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

latter part of August to enact a municipal code for the government of Cleveland and other cities of the state (see **Municipal Affairs**).—**Noteworthy decisions of state courts** have been as follows: the Oregon Supreme Court held void a statute empowering an officer to require the use of a certain contrivance in factories where noxious gases are generated; the court declaring that the right to carry on a certain business could not be made to depend upon the consent of any officer (67 Pac. Rep. 755), the New York Court of Appeals decided that the power of the governor to remove from office for misconduct, extends not only to offences committed in office, but also to offences committed before election or appointment, as where a sheriff enters into a corrupt agreement before election to appoint a man to office in return for political support (Guden *vs.* Dike); the Iowa supreme court decided that an agent may take orders for the shipment of intoxicating liquors from without the state, thus defeating to a large extent the purpose of the prohibition law (Hanophy *vs.* Transportation Co.).

THE TRUST QUESTION. — The case of **the merger of the Northern Pacific and the Great Northern railroads** under the name of the Northern Securities Company (last RECORD, p. 354) continues to be a topic of public interest. The defendants in the suit brought by the state of Minnesota in the United States Circuit Court for the district of Minnesota, to secure a permanent injunction against the merger, filed their answers September 1, denying that the roads in question were parallel, and affirming that rates had been lessened since the merger; that the roads were not indebted to the state on account of land grants; and that the policy of the state had not been hostile to consolidation. October 2 a special examiner was appointed to take evidence. The suit brought by the state of Washington against the Northern Securities Company in the United States Supreme Court is still pending. On October 14 the court granted to the counsel of the defendant thirty days' time to demur, plead or make answer in the proceeding. — The temporary injunction asked for by the government in the United States Circuit Court at Chicago against the so-called "**beef trust**" was granted May 20, on the ground that the combination is in violation of the Federal Anti-Trust Law of 1890. The injunction restrains the defendants from combining, fixing prices arbitrarily, curtailing supplies of meat, enforcing penalties upon dealers, and from other practices in restraint of trade. At about the same time action against the beef trust was begun in the United States District Court at New Orleans, but was abandoned in consequence of the injunction granted at Chicago. On June 4 an injunction similar to that issued by the Federal Court at Chicago was issued by a justice of the supreme court of New York, restraining the trust from entering into combinations to control the price of beef in New York State and from discriminating against certain retail dealers. — Among important decisions of state courts affecting the trust question may be mentioned an opinion of the Texas supreme court holding the State Anti-Trust Law unconstitutional, but reversing its opinion upon a rehearing; an opinion of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Kansas supreme court sustaining the constitutionality of the State Anti-Trust Law; a decision of the New York Court of Appeals (Rourke *vs.* Elk Drug Co.) that the so-called "drug trust" is an illegal combination, and that black-listed dealers injured by the concern may bring action for damages; an opinion of the Georgia supreme court that a combination of dealers to compel a smaller dealer to sell at prices fixed by the combination, and upon his refusal to prevent its members from selling goods to him, is contrary to public policy and on general principles void.

MUNICIPAL AFFAIRS. — A measure of importance in **the city of New York** was an order of the Tax Board that real property shall hereafter be assessed at its full market value. The purpose is to increase the borrowing power of the city by raising the assessed valuation of property. — A noteworthy piece of municipal legislation was an ordinance of **the city of Chicago** compelling railroads entering the city to elevate their tracks, amounting in all to ninety-five miles. It also provides for the construction of a number of subways and the abolition of twenty-seven street crossings. The constitutionality of the ordinance has been sustained by the courts as a legitimate exercise of the police power, and the liability of the city for damages to abutting property owners denied (63 N. E. Rep. 1013). — **The Municipal System of Ohio** was disturbed by several decisions of the supreme court of the state, rendered June 26. One of these (Ohio *vs.* Jones) held that an act vesting the administration of the police of the city of Toledo in a board appointed by the governor and removable by him, was in conflict with the provision of the state constitution which prohibits special legislation. At the same time and on the same ground it was held in another case (Cincinnati *vs.* Trustees) that an act granting to the trustees of the Cincinnati Hospital the power to issue city bonds was invalid. In still another case (Ohio *ex rel. vs.* Beacon *et al.*) it was held that the city charter of Cleveland was invalid as being an act of special legislation, because it applied to but one city in a system of classification whose basis was illogical and arbitrary. As many other cities were affected by this decision the execution of the judgment was suspended until October 2, in order that the legislature might be called together to enact a new municipal code for the cities of the state. — **Municipal self-government** was sustained as against legislative encroachment in **Iowa** by a decision of the supreme court which held void a statute authorizing the appointment by the district court of persons to act as trustees of the Municipal Water Works (State *vs.* Barker, 204 Iowa), and in Indiana by a decision of the supreme court that a statute authorizing the appointment by the governor of a board to control the municipal fire department was void (State *vs.* Fox, 19 Ind.). — A noteworthy decision in regard to **municipal liability** was rendered by the supreme court of Maryland (Mayor *vs.* Klotz, 89 Atl. Rep.), which held that the city is liable for damages on account of injuries received through negligence in enforcing an ordinance to prohibit fast bicycle riding on the streets. — A matter of interest to advocates of **municipal ownership** was the action

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the electorate of Norwich, Connecticut, in voting for public ownership of gas and electric light plants.

LABOR AND CAPITAL. — The chief event under this head was a **strike of anthracite coal miners** in Pennsylvania, beginning May 12 and continuing until October 23, and involving about 145,000 employees. The demands of the miners were for more favorable terms of employment and for a recognition of their labor union, both of which they offered to submit to arbitration. The operators declined to submit the questions at issue to arbitration and attempted to work the mines with non-union laborers. This attempt was accompanied by riots and disorders in several localities, which increased to such an extent that the governor called out the entire militia early in October to preserve the peace. Meantime the rise in the price of coal and the approach of winter caused great pressure to be brought from all quarters upon the operators to induce them to come to an agreement with the miners. Finally, the President of the United States was moved to take action on the ground that the strike had reached a point which affected the people of the country at large. He summoned the operators and the representatives of the miners to meet him in a conference at the White House and urged upon them to settle their controversy by arbitration. At first the operators declined, but subsequently consented to have the questions at issue determined by an arbitration commission, provided the President would select it from certain specified classes or professions. The miners immediately called a convention of their representatives, which accepted the proposition of the operators. The commission, seven in number, was promptly selected by the President and was organized in the latter part of October, and at once entered upon the discharge of its duties. On October 23 the miners resumed work. — Small strikes of short duration have occurred among the miners in several bituminous regions. A strike of silk dyers' helpers in Patterson, New Jersey, in June, developed into a riot in which a number of persons were killed. Strikes of street car conductors occurred in Chicago, New Orleans and several Rhode Island cities. — In several instances injunctions were granted by the courts to restrain strikers from interfering with laborers or machinery. In West Virginia an injunction was issued by a Federal judge forbidding members of the United Mine Workers from interfering with the employees of certain operators for the purpose of inducing them to strike. A decision was given by the New York Court of Appeals that one labor organization may refuse to work with a rival organization and may threaten to strike without incurring legal liability to members of the rival organization for causing their discharge (170 N. Y. 315). — Noteworthy judicial decisions affecting other phases of the labor question were an opinion of the Rhode Island supreme court sustaining the constitutionality of the ten-hour labor law and holding that eleven hours could not be legally contracted for; an opinion of the Oregon supreme court that a statute prohibiting the opening of barber shops on Sunday is not a deprivation of liberty or property without due process of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

law (69 Pac. Rep. 445); an opinion of the New Jersey supreme court that an ordinance forbidding the employment of women in public drinking saloons is not a denial of the equal protection of the laws (51 Atl. Rep. 1092); an opinion of the Washington supreme court that a statute forbidding the employment of females in certain business establishments for more than ten hours a day is not a deprivation of liberty without due process of law; a decision of the Missouri supreme court that the benefits conferred by a statute which prohibits the payment of wages for labor in any check that is not negotiable at its face value cannot be contracted away or waived by the laborer (69 S. W. Rep. 484).

LYNCH LAW. — The number of deaths reported since May 1st as a result of lynching is fifty-four. All of the victims except one appear to have been negroes, and in every case except one the persons charged with the lynching were white. Mississippi heads the list with nine cases of lynching; Texas and West Virginia each follow with five, while Georgia, Florida, Missouri and North Carolina each have four. Two Northern states, Michigan and Oregon each have one, and Illinois was saved from a record by the timely escape of a negro while being led to his doom. In twenty of the cases reported the offense alleged was rape; in most of the others it was murder or murderous assault. In West Virginia five negroes were lynched for complicity in the murder of a policeman, it being subsequently discovered that two of the victims were innocent. In three cases the victims were burnt at the stake. In one case occuring in Texas, the offender, who had been convicted, was induced to waive the period of time allowed by law to prepare for eternity and was immediately executed by the officers in order to avoid lynching. In two other cases occurring in Texas, negroes who had been legally convicted and sentenced to death were taken from the jail and lynched after the judge had refused to accept the waiving of the period allowed by law. Lynchings in several instances were prevented in Mississippi by the prompt and determined action of the governor. In Alabama a number of white men who had been convicted of lynching and were undergoing punishment were pardoned by the governor.

II. FOREIGN NATIONS.

EUROPEAN INTERNATIONAL RELATIONS. — The chief event under this head was the renewal, for a term of seven years, of the **Triple Alliance** originally concluded between Germany, Austria and Italy in 1883 and subsequently renewed. — The **resumption of diplomatic relations** between Italy and Switzerland which were interrupted in April (see last RECORD, p. 537) was brought about through the mediation of the German emperor in the latter part of July. — The ratification of the **Brussels Sugar Convention** has been a subject of discussion in several European Parliaments. A bill for this purpose has passed the German Reichstag. Russia,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

though not a participant in the Brussels Conference but certain to be affected thereby, issued a note to the powers suggesting joint action to protect international commerce against artificial depression in prices, whether resulting from government bounties or from the operation of trusts. — An **International Maritime Conference,** attended by delegates representing thirteen states, was held at Hamburg in September. Special attention was given to the preparation of a uniform law governing collisions and maritime salvage. A draft treaty was prepared and its adoption recommended to the powers represented. — An extradition treaty between **Belgium and Greece** — the first of the kind, with a single exception, that Greece has entered into with any other country — has lately been concluded. — The following incidents have marked the relations between **Turkey** and other states: the rejection by the powers of six candidates proposed in succession by the Porte for the governorship of Lebanon; a protest addressed by the Porte to the four protecting powers against the coinage of Cretan money bearing the effigy of Prince George; and a Russian demand for payment of $4,500,000 as interest to Russian subjects on awards made for property destroyed during the Russo-Turkish War.

GREAT BRITAIN AND IRELAND. — An historic ceremony of general interest to the people of the British Empire was the **coronation of Edward VII** as king on August 9, the original date set for the occasion having been postponed on account of the serious illness of the king. The occasion was enthusiastically celebrated in all parts of the kingdom, in India, in the colonies and by British subjects in foreign capitals, while special thanksgiving services for the king's recovery and in commemoration of the coronation were held in cathedrals and churches throughout the Empire. — The chief political event was the voluntary **retirement of Lord Salisbury** as prime minister on July 13, and the immediate selection of Mr. Arthur J. Balfour as his successor. Other notable changes in the cabinet were the substitution of Mr. C. T. Ritchie as Chancellor of the Exchequer in the place of Sir Michael Hicks Beach, and the appointment of Mr. Akers-Douglas as Secretary of State for Home Affairs, and the Earl of Dudley as Lord Lieutenant of Ireland. — In Parliament the chief matter of interest has been the **struggle over the Education Bill** (see last RECORD, p. 358). The chief opposition has come from the Non-Conformists and Liberals, mainly on the ground that the bill provides for taxation of the rate payers for the support of denominational instruction, the management of which is to be vested in a body, two-thirds of whose members are chosen by the church authorities and one-third by the county or urban councils. The bill, having failed to pass the House of Commons at the last session, was brought over as unfinished business to the present session, and discussion of it was resumed immediately upon the opening of Parliament on October 16. Since the close of the last session opposition to the bill has increased, threats are being made by its enemies to oppose its enforcement should it become law, and in several recent by-elections

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

constituencies formerly conservative have gone against the government on the school question. — Another measure which was the subject of prolonged debate in Parliament were the clauses of **the budget**, which provided for an import duty on grain and an increased tax on incomes, the proposal for an increased tax on bank checks having been withdrawn by the Chancellor of the Exchequer. The *revised* estimates of the budget, as announced by the Chancellor of the Exchequer on June 10, placed the total expenditures for the year at £176,400,000 and the revenues at £152,400,000. A loan of £30,000,000 was proposed as a means of meeting the deficit. — **The situation in Ireland** has continued to grow more serious. The extension of the coercive features of the Crimes Act (see last RECORD, p. 358) early in September to cover five additional counties, including Dublin, caused a loud protest among the Irish, who denied that the situation warranted such action. The attempt to arrest certain Irish members of Parliament under the act was resisted, and in several cases serious riots resulted. More than thirty Nationalists, including eight members of Parliament, are either undergoing punishment or awaiting sentence for conspiracy in connection with tenant troubles or for sedition. Immediately after the reopening of Parliament, October 16, the Irish members entered upon a policy of obstruction, in resistance to the government's order of business, and demonstrated that the new rules of procedure were ineffective to maintain order. After several days of great confusion and the suspension of one Irish member, the obstructionists practically triumphed, their demand for a day to discuss Irish affairs being granted. The municipal elections for England and Wales took place early in November. In thirty-seven cases no contests took place. In the political contests the Liberals gained eighty-four seats and the Conservatives fifty-four. The educational question was an issue in many constituencies.

THE BRITISH COLONIES. — A noteworthy event in its bearings upon British colonial relations was the **Conference of Colonial Premiers** held at London from June 30 to August 11, and brought about through the efforts of the Colonial Secretary, Mr. Chamberlain, who presided over the meetings. The subjects discussed were the political relations of Great Britain and the colonies, imperial defense, the commercial relations of the empire, and the relations of Australia and New Zealand with the islands in the Pacific. A resolution was adopted favoring the holding of a similar conference once every four years, and recommendations were made to the Parliaments concerned that the metric system of weights and measures be established, that the contributions of the colonies for the support of the imperial navy be increased, and that a system of preferential tariffs between the colonies and the mother country be adopted. — In **Canada** the only event of political interest was the break in the Dominion ministry occasioned by the enforced resignation of the minister of public works for engaging in the public discussion of the policy of tariff revision without the approval of his colleagues. — A matter of local interest was the Ontario provincial

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

elections in June, the returns from which showed that the government (Liberal) carried fifty-one seats in the legislature as against forty-seven carried by the Conservatives. — In **Australia** the leading event in commonwealth politics was the resignation of the governor-general, Lord Hopetoun, in consequence of the rejection by the House of Representatives of a bill to increase his salary by £8000. Before appointing a successor, Mr. Chamberlain requested the government to inform him of the amount which would be allowed the next governor-general. Parliament has agreed to fix the amount at £5500. — In the federal parliament the struggle between the upper and lower houses over a tariff bill has been the most noteworthy incident of the session, the Senate insisting upon lower rates than those proposed by the House, especially upon mining and agricultural machinery. A compromise was reached early in September, and the bill passed both houses. — The budget statement of the commonwealth treasurer made in the House of Representatives estimated the receipts for the current year at £3,924,764. A proposal of the government for a loan of £500,000 at three per cent was rejected by the House of Representatives by a vote of 30 to 15. This was the first attempt of the federal government to become a borrower, and the proposition was looked upon with general disfavor. — Among the members of the commonwealth, **Victoria** has been the scene of a parliamentary contest over a retrenchment bill, which provides for a reduction of salaries in the public service. The ministry being defeated on the issue in the legislature, appealed to the electorate to endorse its policy of retrenchment, and won a substantial victory in the elections early in September. A deficit of £700,000 has caused the government considerable apprehension on account of the maturity of a large loan next year. — Dissatisfaction with certain commonwealth legislation in **Queensland** has led to agitation in favor of the withdrawal of that state from the Federation. Chronic financial depression, extravagance, government deficits and increased public debts have been features of the general situation in Australia. New loans and increased taxes continue to occupy the attention of the various commonwealth governments. — An important measure passed by the Assembly of **Cape Colony** increased the contribution of the colony to the support of the imperial navy from £30,000 to £50,000. The ministry was defeated, however, on its scheme for colonial defense.

FRANCE. — The complete returns of **the general elections** held April 27, for members of the Chamber of Deputies, showed a majority of about eighty for the Waldeck-Rousseau ministry. Following the announcement of the ministerial triumph came **the resignation of the cabinet** on June 1, after a tenure of two and one-half years, a record unequaled in French politics since 1870. A new cabinet was immediately organized under the premiership of M. Combes, who took the portfolio of the Interior and of Public Worship. Foreign Affairs were taken by Delcassé, Finance by Rouvier, War by André and Marine by Camille Pelletan. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

new premier announced to the Chamber, June 10, the government's program, which included the enforcement of the Associations Law, the repeal of the Education Law of 1850, a reduction of expenditures, a proposition for a general tax on incomes and the reduction of the term of military service to two years. This declaration was followed by a vote of confidence in the Chamber, June 12. — The attempt of the new ministry to enforce rigidly the **Religious Associations Law** (see RECORD for December, 1901, p. 750), led to resistance culminating in riots in several localities. This was particularly the case in Paris and Brittany. Most of the Catholic schools closed voluntarily, and by successive decrees of the president issued in August, all unauthorized schools were directed to be closed, the military forces being called in to execute the orders in some cases. A majority of the departmental councils have by formal vote approved the law, and upon the reassembly of the Chamber, October 16, a vote of confidence approving the manner in which the new ministry had enforced the law was carried by a majority of 113. — In the domain of legislation a **financial measure** of importance was the enactment of a law for the conversion of the three and one-half per cent bonds into three per cents. The change will affect nearly one-third of the funded debt of France and involves an annual saving of nearly 7,000,000 francs. At the reopening of the Chamber in October the finance minister presented the budget for 1903, which carries an expenditure of 3,602,000,000 francs, the estimated receipts being 3,575,000,000. To make up the deficiency a variety of expedients is proposed. Noteworthy in the domain of **internal administration** was a decision of the cabinet council that hereafter no official shall be appointed or promoted until the prefect of the department in which he resides has been questioned in regard to his political attitude. — An incident of the industrial situation were strikes of coal miners for higher wages in the departments of the Nord, Loire and Pas-de-Calais. Through the good offices of Premier Combes the miners and employers in the last named department consented to arbitrate their differences and the strike was accordingly ended. — An incident in the **foreign relations** of France was a convention with Siam (signed October 7), settling pending questions between the two powers, defining boundaries and conceding the right of France to a special position in the Siamese portion of the Mekong valley.

GERMANY. — The one matter that has dominated the political life of Germany is the continued **struggle over the tariff bill** (see last RECORD, p. 360), which has now been before the Reichstag about one year. Before the adjournment of Parliament in the spring, a committee of the Reichstag was appointed to sit during the recess for consideration of the bill. In committee many modifications were made, especially in the way of increasing the minimum rates, and the amended project was submitted to Parliament at its reopening on October 14. On the 16th, discussion of the bill was resumed by a speech of Chancellor von Buelow, who defended the government's original project, and declared that any increase

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the minimum tariff would render the conclusion of new commercial treaties with foreign powers impossible. He added that the tariff proposed by the government was the extreme limit if Germany wished to obtain from other countries greater concessions than she now enjoyed. But the Agrarians and industrial protectionists continued to insist upon a higher minimum, and on October 21 the government was defeated in the Reichstag on a test vote, the question being on an amendment to raise the minimum duties on grain. On November 14 the chief weapon of the tariff obstructionists was taken away by the adoption of the French method of voting by card in the Reichstag. In the meantime foreign difficulties are threatened on account of the uncertainty in regard to the tariff. The government has decided not to give the year's notice in December of the termination of commercial treaties, which was expected as a preliminary to negotiations for new agreements. In view of this action some of the powers have intimated that unless new agreements can be made they may find it necessary to renounce their commercial arrangements with Germany. — A matter of scarcely less interest at the last session of the Reichstag was the contest over the ratification of the Brussels Sugar Convention (see last RECORD, p. 356) and the so-called "**Sugar Bill**," to carry out the provisions of the convention. The opposition of the Agrarians took the form of obstructive tactics, by means of which they succeeded in having both measures referred to a special committee for more extended hearing, but both passed the Reichstag by a large majority early in June. The Sugar Bill carries an excise duty of 14 marks with a surtax of 4.80 marks, which is the maximum allowed by the Brussels Convention. — A measure of great importance to the inhabitants of the Reichsland was the repeal in June of the so-called "dictatorship paragraph" of the imperial law for the **government of Alsace-Lorraine**. The repeal puts an end to the summary powers of the Statthalter, which relate chiefly to the suppression of French newspapers and popular meetings. — An important **amendment to the Imperial Criminal Code** was effected by a law of June 13, which abolishes the so-called "*Fliegender Gerichtsstand*" in press offenses. — Among the individual states of Germany the **Polish Settlement Bill of Prussia** is the most noteworthy subject of public interest. The project which the Prussian government has undertaken to carry out provides a large fund (250,000,000 marks) for colonizing West Prussia and Posen with German settlers and for creating therein government domains. — In **Bavaria** a political crisis resulting in a change of cabinet was brought about by the attempt of the minister of public instruction to settle in the faculty of the University of Wurzburg a professor of history of Czech nativity and of clerical tendencies. The faculty protested and finally the dean and the university senate resigned with the approbation of the professors and students of Wurzburg and the other Bavarian universities. The government finally sacrificed the minister, whereupon his supporters in the Bavarian Parliament refused to vote certain credits demanded by the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

government, among which was an appropriation of 100,000 marks for the purchase of certain works of art. The vain appeals of the prince regent finally led to the intervention of the emperor, who created something of a sensation by sending a telegram to the prince regent, expressing indignation at the action of the majority and offering to place at his disposal the 100,000 marks asked for.

AUSTRIA-HUNGARY. — The one question of absorbing interest in the Austro-Hungarian monarchy has been the negotiations between the two members for the renewal of the **Ausgleich**, or customs and trade union, which has been suspended since 1897 on account of the failure of the two states to come to an agreement. In September the Hungarian and Austrian premiers held conferences at Vienna and at Budapest, but without conclusive results. It is generally understood that the political and financial questions involved have been disposed of to the satisfaction of both parties, but there seems to be no prospect of agreement relative to the tariff. The Hungarians object to the Austrian demand for a protective tariff on manufactured products lest they be left to the mercy of the Austrian manufacturers, while the Austrians will not agree to the Hungarian demand for a tariff on cereals which will exclude from Austria foreign grain to the great advantage of the Hungarian products. — A chronic **economic crisis in Hungary** and consequent popular discontent has caused riots in Galicia and elsewhere. Early in September serious riots also broke out between the Serbs and Croats in Croatia. Many persons were injured, martial law was proclaimed and troops were called in to suppress the disorder. The Hungarian Parliament assembled in October and entered upon a discussion of the budget for 1903 and Austrian relations. Besides these two important questions a series of economic, judicial and administrative reforms is expected to occupy the attention of the Parliament at the present session. Elections held in twenty-one rural constituencies of the Lower Austrian Diet in the latter part of October resulted in a victory for the Christian Socialists over the Liberals, they having won all the seats except one.

RUSSIA. — **The condition of the peasantry** has continued to grow worse on account of famine and disease. The discontent developed into outbreaks in some localities, especially in South Russia. At Rostov, on July 1, a crowd of workmen broke into several manufacturing establishments, destroyed the machinery and plundered the people of the surrounding country. The rioters were fired upon by the soldiers and many were killed. A measure of relief to the peasantry was a ukase of the czar, issued June 15, remitting arrears of taxes to the amount of 25,000,000 roubles. As compensation for the landed proprietors of Kharkoff and Poltava who suffered loss on account of the disturbances in May (see last RECORD, p. 361) a grant of 800,000 roubles was made from the imperial treasury. — The **outbreaks among the students** (see last RECORD) continued into the summer, but have lately abated. In June an imperial rescript was addressed to the minister of education on the subject of student riots, declaring in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

emphatic terms that an end must be put to the disorders. In August the czar ordered the liberation of the students imprisoned for participation in the disturbances at Moscow in February. About the same time provision was made for the organization of disciplinary courts in the high schools to try cases of dispute between students and teachers. — The ordinances designed for the **extinction of Finnish autonomy** were promulgated at Helsingfors on October 1. By these the Finnish Senate, which is a central administrative organ and supreme court, is placed under the direct and constant supervision of the governor-general, who is vested with power of veto over its proceedings, and whose presence is made essential to the transaction of any important business. In the second place the governor-general and the Senate under his supervision are empowered to dismiss without legal trial any administrative official who has not been appointed directly by the czar. Thirdly, the judicial section of the senate is empowered to dismiss judges at its pleasure. Fourthly, no official can be brought to trial on any charge without the consent of his superiors.

ITALY. — **Parliament** assembled on April 15. Shortly thereafter the ministry, which had the confidence of the deputies, resolved to secure, if possible, a vote of confidence in the Senate, but was defeated on April 23 on the question of the order of the day. Early in June, however, the ministry won a triumph in both houses on the budget of the interior, which was carried by a majority of two hundred votes in the Chamber and received all but sixteen votes in the Senate. The budgets of all the ministers passed almost without discussion. — On May 21 the finance minister communicated to the Chamber a statement of the estimated receipts and expenditures for the fiscal year ensuing, as 1,711,000,000 and 1,698,000,000 lire respectively. The financial situation continues to give the government much concern. — An important financial measure devised by M. de Broglio, finance minister, provides for the creation of a new three per cent *titre de Consolidé*. — During the month of June a number of measures were passed for the **construction of public works.** They involve large expenditures, yet were passed after little discussion and in most cases received the smallest legal majority. The most noteworthy of these provides for the construction of a great aqueduct from the Apennines through the province of Apulia to supply drinking water to the inhabitants of three provinces. The estimated cost is 139,000,000 lire. Other measures provided for overhauling the financial affairs of the city of Naples, which had fallen into a disgraceful condition, for voting the city a loan of 9,500,000 lire and for creating a department of labor for the city of Rome. — The **elections** for the communal and provincial councils took place in June, and, in general, were favorable to the liberals. — The condition of the **peasantry** in South Italy has been one of distress and discontent on account of heavy taxation, disease and general poverty. The government program for its relief includes a reduction in the cost of salt, a reduction of the land tax on small holdings and exemption from the income tax.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SPAIN. — The chief event in Spanish politics was the **coronation of Alfonso XIII** as king on May 17, and the termination of the regency held by his mother. Simultaneously with the termination of the regency came the announcement from prime minister Sagasta of his intention to retire from the government at an early date, his mission being considered as fulfilled with the accession of the king. Meantime, however, he has formed a new cabinet made up chiefly of members of the preceding ministry, there being but two new appointees. — The growing movement against the control of the Church in educational affairs culminated in the issue of a drastic decree by the king in July for the **regulation of non-official instruction.** The law went into effect September 15, although a further delay of three months was allowed for compliance with its provisions. It provides that all schools of whatever kind which are not state schools — whether founded or supported by corporations or private individuals, and whether in receipt of government or municipal subventions or self-supporting — shall be subject to authorization by the proper authorities, to periodical inspection, and to the enforcement of regulations concerning sanitation, punishment and discipline and qualifications of teachers. — A **new financial arrangement** between the government and the Bank of Spain was concluded in July, by which all sums advanced to the government by the bank shall bear interest at the rate of two per cent. It is to be followed by an increase of the metallic reserve and a reduction of the paper currency. — An incident in the foreign relations of Spain in June was the official recognition of the republic of Cuba. — The condition of the **laboring classes** in several provinces has been marked by discontent and unrest, resulting in some instances in riots which had to be suppressed by the artillery forces.

MINOR EUROPEAN STATES. — In **Belgium** the chief event of political interest was the elections of May 25, to fill one half the seats in the lower chamber. The returns showed a majority of twenty-six for the government as compared with a majority of twenty before the election. The Catholics won ninety-six out of one hundred and sixty-six seats, and the Liberals and Social-Democrats each secured thirty-five seats. — In the **Netherlands** a noteworthy event was the opening of Parliament by the queen on September 16. The speech from the throne was devoted chiefly to domestic affairs. Among the measures announced were bills for increasing educational facilities, restricting compulsory vaccination, pensioning teachers, regulating lotteries, abolishing the state lottery and amending the sugar law. — In **Sweden** the strike, under the auspices of the Social-Democratic party, in support of the suffrage movement was an event of widespread interest. Simultaneously with the commencement of the debate on the suffrage bill in the Riksdag on May 15, all adherents of the party throughout Sweden ceased work as a means of forcing the action of the government. In Stockholm traffic of all kind was suspended and work in the factories and printing offices stopped. In other cities the strike was not so effective. The strike continued for three days without visible disorder, when it was

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ended by the promise of the government to introduce a bill in 1904 providing for universal suffrage. A change in the cabinet occurred in July, M. Boström becoming prime minister and selecting a cabinet favorable to suffrage reform. The result of the elections to the second chamber of the Riksdag in September showed a majority for the Liberals, the Social-Democrats winning only four seats. — In **Switzerland** the debate on the electoral law for the rearrangement of the arrondissements and redistribution of members of the national council has been a subject of much legislative interest. The discussion has developed a movement in favor of amending the constitution so as to distribute representation in the national council according to Swiss population instead of total population. A petition for a constitutional revision on this point has secured the 50,000 signatures necessary. Another measure which was the subject of much discussion at the last session was the proposition to make grants from the confederate treasury to the cantonal treasuries for the support of primary schools. It was finally agreed that this could not be done without an amendment to the constitution. The federal council was accordingly authorized to present a constitutional amendment in the form of an additional article (not a revision). The industrial situation has been marked by disorders and strikes to such an extent that the local police had to be reinforced by confederate troops in some localities in order to preserve the peace. — The situation in **the Balkan Peninsula** has been characterized by persistent revolutionary outbreaks along the frontier of Bulgaria and Macedonia, and engagements of greater or less importance have occurred almost daily between the revolutionists and the Turkish troops. The old Macedonian committee, which has long been the source of the revolutionary propaganda, recently split into two factions, the one aiming to unite Macedonia to the principality of Bulgaria and form a Bulgarian state, the other favoring Macedonian independence without union with Bulgaria. A Turkish commission of inquiry concluded its investigations in the disturbed districts of Macedonia and recommended certain modifications in the civil administration, notably the reorganization of the gendarmerie.

THE ORIENT. — An important incident in Oriental relations was the conclusion in August of a customs and **commercial treaty between Great Britain and China**. The treaty contains elaborate arrangements for the navigation of the Yang-tse and Canton rivers, the equalization of dues on junks and steamers, facilities for drawbacks, the establishment of a currency system and the liability of Chinese shareholders in joint-stock companies. The most important article provides for the abolition of the vexatious likin, an arbitrary internal tax which has been a great obstacle to commercial intercourse with foreign nations. This is regarded as a Chinese reform of the first magnitude. — The negotiations between the representatives of the powers and the Chinese officials for the **revision of the Chinese provisional tariff** were concluded in the latter part of August, and the treaty was signed by the representatives of Austria, Germany,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

England, Belgium, Japan, Holland, Spain and the United States. France has not agreed to the treaty mainly on account of dissatisfaction with the rate imposed upon wines and silks. — **The reinstatement of the Chinese control over the railways** has proceeded apace. The agreement of Great Britain on April 29 to restore to the Chinese civil administration the control of the Peking-Tien-tsin-Shan-hai-kwan railroad (see last RECORD, p. 366) was carried into effect by the British military authorities on September 29. Russia objected to some of the conditions under which the restoration was made, especially the provision for supervision by a military co-directorate of British, German and Japanese representatives, and allowing foreign financial assistance in the construction of a railroad from Peking to the Great Wall. France likewise objected, but on August 12 gave her assent under certain conditions. The action of Great Britain in fulfilling her agreement led Russia to take steps to carry out her promise of April 8, for the restoration of the Kin-Chau-Niu-Chwang section of the northern railway. To that end a formal agreement for restoration at an early date was signed by the Russian representatives and the Chinese authorities at Shan-Hai-Kwan early in October, and on October 9 the restoration of the road was completed. At the same time the portion of Manchuria south of the Liau River was restored in accordance with the Manchurian agreement (see last RECORD, p. 366). — An agreement for the **restoration of the city of Tien-tsin** to Chinese control was reached by the ministers of the six powers interested in the provisional government of the city, and on August 15 the agreement was carried into effect. The restoration was made subject to twenty-four conditions, the chief of which relates to the prohibition upon Chinese troops from approaching within a certain distance of the city. Russia protested against the conditions and finally withdrew from the provisional government, took no further part in the discussion of the terms for its restitution and refused to be a party to imposing such conditions. — An agreement among the powers for the **reduction of the amount of the indemnity** against China was reached in June. The agreement was based upon Secretary Hay's proposition that the United States would reduce the amount of its claims if most of the other powers would reduce theirs proportionately. To this Great Britain would not at first agree, but in June abandoned her opposition and assented to the reduction. — In the latter part of October an agreement between France, Great Britain and Germany **for the early evacuation of Shang-hai** by their military forces was reached, it being felt that the necessity for further military occupation no longer existed. The main condition upon which the evacuation is to be made is the assurance upon the part of China of equality of treatment of the powers. A result of the agreement will be the extension of the "open door" policy as urged by Secretary Hay. The agreement applies not only to Shanghai, but to the entire Yang-tse-Kiang valley. In September serious **Boxer outbreaks** occurred in the province of Sze-Chuen. The cause of the uprising was the conduct of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

viceroy in oppressing his subjects, but making it appear that the source of this distress was the foreigners. An ineffectual attempt was made by a band of 50,000 boxer rebels to take the city of Cheng-tu-Foo, the capital of the province. Upon the protest of the ministers the viceroy was summarily removed from office. — In **Japan** the chief event was the general election in August. The returns showed that the Sei-Ya-Kai, or Liberal Party, carried 192 of the seats in Parliament, and the Progressists 104. Satisfaction was expressed with the working of the new minority system of representation. The new budget completed in October makes liberal appropriations for railroad and telephone extension. The estimated receipts for the current year are 258,000,000 yen, the expenditures 262,000,000. — An incident of Oriental relations worthy of note is the agreement between Japan on the one hand and the governments of Great Britain, France and Germany to submit to The Hague arbitration court the exact interpretation of the treaties dealing with the holding of perpetual leases of property by foreigners in Japan.

AFRICA. — The chief event in South African affairs was the **termination of the war between the Boers and the English.** The terms of peace were announced in the House of Commons on June 2 by Mr. Balfour. They were, first, the burghers to lay down their arms and recognize the sovereignty of Edward VII ; second, all Boer prisoners to be brought back as soon as possible to South Africa, Great Britain undertaking that they shall not suffer loss of personal liberty or property, and that no proceedings, civil or criminal, are to be taken against any such prisoners, except where they have been guilty of a breach of the laws of war ; third, the Dutch language to be taught in the schools where the parents desire it, and used in the courts of law when necessary for the better administration of justice ; fourth, military administration of the colonies to cease as soon as possible, and civil government with representative institutions leading up to self-government to be introduced as soon as circumstances permit. Great Britain furthermore agreed to abstain from levying a special tax on the land for the purpose of defraying the cost of the war, and to assist the burghers in restocking their farms with seed, draft animals, implements, *etc.*, for which purpose an allowance of £3,000,000 is to be granted, while the government will make loans free of interest for two years and afterwards at three per cent. The treatment of British subjects in the Cape and Natal Colonies who joined the Boers in the war was left to the determination of the governments of the colonies to which they belong. The Cape government announced at the same time that the punishment of the rank and file would be limited to disfranchisement for life, provided they made public acknowledgment of their guilt of high treason. An exception to this leniency was made in cases of murder and conduct contrary to the usage of civilized warfare. Those above the rank of private who are charged with high treason are to be tried before the civil courts, and in no case shall the death penalty be inflicted. On November 6 the House of Commons

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

voted a grant of £8,000,000 for the relief of the Boer Colonies. Of this £3,000,000 is granted to the burghers pursuant to the terms of the treaty which closed the war, £2,000,000 to British sufferers on account of the war and the remainder is to constitute a loan fund. A statement issued by the war office places the number of men who were killed or died of disease in the English service in South Africa at 28,434. The appointment in August of a royal commission to inquire into and report upon the conduct of the war in South Africa was an incident of popular interest.

LATIN AMERICA. — Latin American politics have been characterized by the usual number of revolutionary disturbances. — A **revolution in Hayti** against the government of President Sam broke out in May and continued until the middle of October. Sam was compelled to resign and leave the country, General Firmin, Haytian Minister to France, becoming provisional president with headquarters at Gonaives. — An incident of the military operations was the sinking of the Firminist gunboat *Crête à Pierot* by a German cruiser for confiscating the arms and ammunition of a German steamer. — **The revolution in Colombia** (see last RECORD, p. 367) has continued without prospect of early termination; occasional fights have occurred between the insurgents and government forces resulting, in several instances, in heavy losses. Early in September two United States warships were ordered to Colombia to protect American interests. Marines were landed on the isthmus to insure transit on the Panama railroad and, by a subsequent order of Admiral Casey, troops and ammunition belonging to the government of Colombia were denied transportation across the isthmus by rail except by special permission from the admiral. This step was taken as a result of the belief that the transportation of government troops by way of the railroad might provoke the revolutionists to acts of hostility and thus interfere with the right of transit guaranteed to the United States by the treaty of 1846. The order called forth a strong protest from the government of Colombia, which denied that the situation warranted such action. — The **insurrection against President Castro** of Venezuela (see last RECORD, p. 368) has continued without definite results to either side. Incidents in connection with the military operations were the bombardment of La Guayra by the revolutionists in June, the capture of Barcelona and the rout of Castro's forces in August, and the dispatch of two American cruisers to La Guayra to protect American interests. The misuse of the United States flag by a Venezuelan gunboat within the three-mile limit off Cuidad, was followed by the demand of the American minister for an apology, which was readily given. The blockade of the Venezuelan ports by the government called forth a protest from Great Britain, France and Germany on the ground that the blockade was ineffective. — A noteworthy event in the international relations of South America was the final conclusion of a **treaty between the governments of Chile and Argentina** for the limitation of the armaments of each country, retaining the naval equipments now in existence, but providing for the rescinding of the contracts for vessels

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

now in course of construction. An arbitration treaty was also concluded between the two governments, embodying the principle of Argentine neutrality in the affairs of the Pacific coast and non-interference by Chile in Argentine territorial matters. An incident of interest in Brazil was the inauguration of the new president, Dr. Rodrigues Alves, November 15.

J. W. GARNER.

COLUMBIA UNIVERSITY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

WORKS BY THE EDITORS OF THE

POLITICAL SCIENCE QUARTERLY

J. W. BURGESS:—**Political Science and Comparative Constitutional Law** (2 vols.), Boston and London, GINN & COMPANY, 1890–1891. **The Middle Period, 1817-1858; The Civil War and the Constitution, 1859-1865** (2 vols.); **Reconstruction and the Constitution, 1866-1877**;—American History Series, New York, CHARLES SCRIBNER'S SONS, 1897, 1901, 1902.

RICHMOND MAYO-SMITH:—**Emigration and Immigration,** New York, CHARLES SCRIBNER'S SONS, 1890. **Statistics and Sociology; Statistics and Economics**;—Columbia University Press (MACMILLAN), 1895, 1899.

MUNROE SMITH:—**Bismarck,** Columbia University Press (MACMILLAN), 1899.

FRANK J. GOODNOW:—**Comparative Administrative Law** (2 vols.), New York, G. P. PUTNAM'S SONS, 1893; one-volume edition, 1902. **Municipal Home Rule,** Columbia University Press (MACMILLAN), 1895. **Municipal Problems,** Columbia University Press (MACMILLAN), 1897. **Politics and Administration,** New York, THE MACMILLAN COMPANY, 1900.

EDWIN R. A. SELIGMAN:—**Railway Tariffs and the Interstate Commerce Act,** Boston, GINN & COMPANY, 1888. **The Shifting and Incidence of Taxation,** Second Edition, Columbia University Press (MACMILLAN), 1899. **Progressive Taxation in Theory and Practice,** New York, THE MACMILLAN COMPANY, 1894. **Essays in Taxation,** New York, THE MACMILLAN COMPANY, 1895; Third Edition, 1901. **The Economic Interpretation of History,** Columbia University Press (MACMILLAN), 1902.

HERBERT L. OSGOOD:—**Archives and Public Records of New York,** published by THE AMERICAN HISTORICAL ASSOCIATION, Washington, 1901.

WILLIAM A. DUNNING:—**Essays on the Civil War and Reconstruction,** New York, THE MACMILLAN COMPANY, 1898. **A History of Political Theories, Ancient and Mediæval,** New York, THE MACMILLAN COMPANY, 1902.

JOHN BASSETT MOORE:—**Extraterritorial Crime,** Washington, published by the Government, 1887. **Extradition and Interstate Rendition** (2 vols.), Boston, THE BOSTON BOOK COMPANY, 1891. **American Notes on Conflict of Laws** (accompanying Dicey's "Conflict of Laws"), Boston, THE BOSTON BOOK COMPANY, 1895. **History and Digest of International Arbitrations** (6 vols.), Washington, published by the Government, 1898.

FRANKLIN H. GIDDINGS:—**The Modern Distributive Process** (in collaboration with J. B. Clark), Boston, GINN & COMPANY, 1888. **The Theory of Sociology,** Philadelphia, AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE, 1894. **The Principles of Sociology,** New York, THE MACMILLAN COMPANY, 1896; Seventh Edition, 1902. **The Theory of Socialization,** New York, THE MACMILLAN COMPANY, 1897. **Elements of Sociology,** New York, THE MACMILLAN COMPANY, 1898. **Democracy and Empire,** New York, THE MACMILLAN COMPANY, 1900; Second Edition, 1901. **Inductive Sociology,** New York, THE MACMILLAN COMPANY, 1901.

JOHN B. CLARK:—**The Philosophy of Wealth,** Boston, GINN & COMPANY, 1886; Second Edition, 1887. **The Modern Distributive Process** (in collaboration with F. H. Giddings), Boston, GINN & COMPANY, 1888. **The Distribution of Wealth,** New York, THE MACMILLAN COMPANY, 1899. **The Control of Trusts,** New York, THE MACMILLAN COMPANY, 1901.

JAMES HARVEY ROBINSON:—**Petrarch, the First Modern Scholar and Man of Letters** (in collaboration with H. W. Rolfe), New York, G. P. PUTNAM'S SONS, 1898. **The History of Western Europe,** Boston, GINN & COMPANY, 1902.

WILLIAM M. SLOANE:—**The French War and the Revolution,** American History Series, New York, CHARLES SCRIBNER'S SONS, 1893. **The Life of Napoleon Bonaparte** (3 vols.), New York, THE CENTURY COMPANY, 1896. **The French Revolution and Religious Reform,** New York, CHARLES SCRIBNER'S SONS, 1901.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED